ARKANSAS STATE MEDICAL BOARD

Arkansas Medical Practices Act Statutes and Rules

Revised 8/19/2025

Contents

PROVISIONS GENERALLY

17-1-108. Expedited temporary and provisional licensure — Legislative intent — Definitions.

(a)

(1) It is the intent of the General Assembly to ensure that an individual may be credentialed to work in Arkansas if he or she generally demonstrates the skills and ethics required by state law based on the individual's experience and credentials in another state.

(2) It is not the intent of the General Assembly to cause the licensing entity to engage in simple comparisons of the required hours of training and other personal qualifications under Arkansas's occupational licensing statutes with those qualifications required in the state where the individual is credentialed.

(b) As used in this section:

(1) "Individual" means a natural person, firm, association, partnership, corporation, or other entity that may hold an occupational license;

(2) "Occupational licensing entity" means an office, board, commission, committee, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession; and

(3) "Occupational license" means a license, certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession.

(c) An occupational licensing entity shall by rule adopt the least restrictive requirements for an occupational license for an individual who:

(1) Demonstrates that he or she:

(A) Holds an occupational license that is substantially similar to practice in the field of his or her occupation or profession in another state, territory, or district of the United States;

(B) Holds his or her occupational license in good standing;

(C) Has not had his or her occupational license revoked for:

(i) An act of bad faith; or

(ii) A violation of law, rule, or ethics;

(D) Is not holding a suspended or probationary occupational license in any state, territory, or district of the United States; and

(E) Is sufficiently competent in his or her field; and

(2) Pays any occupational license fee required by law or rule.

(d)

(1)

(A) An occupational licensing entity shall comply with the requirements under subsection (c) of this section by adopting the least restrictive rule that allows for reciprocity or licensure by endorsement.

(B) The rule adopted under subdivision (d)(1)(A) of this section shall provide the procedure by which an occupational licensing entity shall grant a temporary and provisional occupational license for ninety (90) days or longer to an individual under subsection (c) of this section if presented with evidence of a current and active occupational license that is substantially similar to practice in the field of his or her occupation or profession in another state, territory, or district of the United States.

(2) If a state, territory, or district of the United States does not require an occupational license for a profession that requires an occupational license in this state, an occupational licensing entity shall adopt a rule that is least restrictive to permit an individual who is sufficiently competent in his or her field to obtain an occupational license for that occupation or profession in this state.

(3) The occupational licensing entity may require additional state-specific education for an individual with an occupational license in another state, territory, or district of the United States that does not offer reciprocity similar to reciprocity under this section to individuals with an occupational license in this state.

(e)

(1) Except as provided under subdivision (e)(2) of this section, an occupational licensing entity shall not require an individual who meets the requirements of subsection (c) of this section to participate in the apprenticeship, education, or training required as a prerequisite to occupational license of a new professional in the field.

(2) The occupational licensing entity may require the individual to participate in continuing education or training if the continuing education or training is required for all professionals in the field to maintain the occupational license.

(f) If a criminal background check is required of an applicant for an initial occupational license or of an individual currently holding an occupational license, then the occupational licensing entity may require an individual seeking his or her occupational license under this section to meet the same criminal background check requirements as the applicant for an initial occupational license or as the individual currently holding an occupational license.
(g) The occupational licensing entity may require the individual applying for an occupational license under this section to meet any bonding, financial statement, or insurance requirements that are applicable to all applicants.
(h) This section shall not apply to:
(1) Reciprocity or license by endorsement provisions under §§ 17-12-308, 17-26-315, 17-27-308, 17-28-306, 17-31-308, 17-36-304, 17-42-305, 17-43-307, 17-83-305, 17-88-305, 17-89-305, 17-90-302, 17-92-114, 17-92-308, 17-93-414, 17-97-306, 17-99-304, 17-100-304, and 17-103-302; or
(2) The occupational licensing entities that administer the reciprocity provisions under subdivision (h)(1) of this section.
(i) An occupational licensing entity may enter into written agreements with similar occupational licensing entities of another state, territory, or district of the United States as necessary to assure that licensees in this state have comparable nonresident licensing opportunities as those opportunities available to nonresidents by occupational licensing entities in this state.

History: Acts 2019, No. 426, § 3; 2019, No. 1011, § 2.

17-1-110. Licensing of certain individuals — Definitions.

(a) As used in this section:
(1) "Occupational or professional license" means a license, certificate, registration, permit, or other form of authorization required by law or rule for an individual to engage in a particular occupation or profession; and
(2) "Occupational or professional licensing entity" means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession.
(b) An occupational or professional licensing entity shall grant an occupational or professional license under this section to an individual who fulfills the requirements to practice an occupation or profession in this state and is a person who holds a Federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a "work permit".
(c) This section is a state law within the meaning of subsection (d) of 8 U.S.C. § 1621, as existing on January 1, 2021.
History: Acts 2021, No. 746, § 1.

17-4-101. Title.

This chapter shall be known and may be cited as the "Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021".
History: Acts 2021, No. 135, § 2.

17-4-102. Legislative findings and intent.

(a) The General Assembly finds that:
(1) Arkansas sets the bar as a national leader in addressing employment barriers faced by uniformed service members, uniformed service veterans, and their spouses in attaining occupational licensure;
(2) Arkansas is one (1) of only four (4) states to successfully address eight (8) or more of the ten (10) issues affecting uniformed service families identified by the United States Department of Defense;
(3) Of the United States Department of Defense's ten (10) issues in fiscal year 2020, four (4) of the issues concern occupational licensure of spouses of uniformed service members;
(4) Annually, fourteen and five-tenths percent (14.5%) of spouses of uniformed service members move across state lines as opposed to one and one-tenth percent (1.1%) of civilians;
(5) States can continue to improve the attainment of occupational licensure and to eliminate barriers impeding employment of spouses of uniformed service members following a move across state lines;
(6) Acts 2019, No. 820, established provisions for the granting of automatic occupational licensure or expedited occupational licensure to active-duty service members, recently separated veterans, and their spouses who hold occupational licensure in good standing in another jurisdiction; and
(7) Additional steps need to be taken to clarify, simplify, and elevate the occupational licensure process for uniformed service members, uniformed service veterans, and their spouses.

(b) It is the intent of the General Assembly to address occupational licensure barriers that impede the launch and sustainability of civilian occupational careers and employment faced by uniformed service members, uniformed service veterans, and their spouses due to frequent uniformed service assignment by:

(1) Providing:
(A) Automatic occupational licensure or expedited occupational licensure to current license holders to expedite their entry into the workforce of this state;
(B) Temporary or provisional licensure to initial licensure candidates while expediting full licensure;
(C) Legislative oversight of rulemaking by occupational licensing entities to ensure removal of occupational licensure barriers faced by uniformed service members, uniformed service veterans, and their spouses; and
(D) Guidance to assure effective rulemaking and clear license application instructions to uniformed service members, uniformed service veterans, and their spouses;
(2) Recognizing uniformed service education, training, experience, and credentials of uniformed service members and uniformed service veterans applying for initial occupational licensure; and
(3) Extending licensure expiration and any continuing education required for occupational licensure renewal when a uniformed service member is deployed.

History: Acts 2021, No. 135, § 2.

17-4-103. Definitions.

As used in this chapter:
(1) "Automatic occupational licensure" means the granting of occupational licensure without an individual's having met occupational licensure requirements provided under this title or by the rules of the relevant occupational licensing entity;
(2) "Occupational licensing entity" means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession, not including occupations or professions within the judicial branch of government or occupations or professions subject to the superintending control of the Supreme Court;
(3) "Occupational licensure" means a license, certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession;
(4) "Uniformed service member" means:
(A) An active or reserve component member of the United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space Force, or National Guard;
(B) An active component member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or
(C) An active or reserve component member of the United States Commissioned Corps of the Public Health Service; and
(5) "Uniformed service veteran" means a former member of the United States uniformed services discharged under conditions other than dishonorable.

History: Acts 2021, No. 135, § 2.

17-4-104. Applicability.

Unless otherwise stated in this chapter, this chapter applies to:
(1) A uniformed service member stationed in the State of Arkansas;
(2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; and
(3) The spouse of:
(A) A person listed in subdivision (1) or subdivision (2) of this section;
(B) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; and
(C) A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

History: Acts 2021, No. 135, § 2.

17-4-105. Automatic occupational licensure.

An occupational licensing entity shall grant automatic occupational licensure to engage in an occupation or profession to an individual who is:
(1) Listed in § 17-4-104; and
(2) The holder in good standing of occupational licensure with similar scope of practice issued by another state, territory, or district of the United States.

History: Acts 2021, No. 135, § 2.

17-4-106. Expedited occupational licensure.

(a)

(1) An occupational licensing entity may submit proposed rules recommending an expedited process for the attainment of occupational licensure instead of automatic occupational licensure as provided under § 17-4-105 to the Administrative Rules Subcommittee of the Legislative Council.

(2) The proposed rules described in subdivision (a)(1) of this section shall include temporary or provisional occupational licensure provisions with a term of ninety (90) days or more.

(3) The occupational licensing entity shall provide automatic occupational licensure if the proposed expedited occupational licensure rules are not approved as required by § 17-4-109.

(b)

(1) An occupational licensing entity shall expedite the process for initial occupational licensure for an individual who is listed in § 17-4-104.

(2) An occupational licensing entity shall provide the applicant under subdivision (b)(1) of this section with a temporary or provisional license upon receipt of required documentation or the successful completion of any examination required by the relevant occupational licensing entity to enable the applicant to secure employment in his or her occupation or profession.

History: Acts 2021, No. 135, § 2.

17-4-107. Acceptance of uniformed service education, training, national certification, or service-issued credential.

An occupational licensing entity shall accept relevant and applicable uniformed service education, training, national certification, or service-issued credential toward occupational licensure qualifications or requirements when considering an application for initial licensure of an individual listed in § 17-4-104.

History: Acts 2021, No. 135, § 2; 2023, No. 137, § 2.

17-4-108. Extension of license expiration and continuing education requirements.

(a) An occupational licensing entity shall extend the expiration date of an occupational licensure for a deployed uniformed service member or his or her spouse for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(b)

(1) An occupational licensing entity shall allow a full or partial exemption from a continuing education requirement that is required as a component of occupational licensure for an individual who is listed in subsection (a) of this section until one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(2) An occupational licensing entity that allows full or partial exemption from continuing education requirements may require evidence of completion of continuing education before granting a subsequent occupational licensure or authorizing the renewal of an occupational licensure.

History: Acts 2021, No. 135, § 2.

17-4-109. Legislative oversight of rules.

(a) The Administrative Rules Subcommittee of the Legislative Council shall:

(1) Review the proposed rules of an occupational licensing entity as submitted for public comment at least thirty (30) days before the public comment period ends under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and

(2) Approve the proposed rules submitted under § 17-4-106 based on:

(A) A determination of whether the expedited process provides the least restrictive means of attaining occupational licensure; and

(B) Any other criteria the Administrative Rules Subcommittee of the Legislative Council determines necessary to achieve the objectives of this section.

(b) The Administrative Rules Subcommittee of the Legislative Council may:

(1) Establish a further subcommittee to assist in the duties assigned to the Administrative Rules Subcommittee of the Legislative Council under this section;

(2) Assign information filed with the Administrative Rules Subcommittee of the Legislative Council under this section to one (1) or more subcommittees of the Legislative Council, including without limitation a subcommittee created under subdivision (b)(1) of this section; or

(3) Delegate the duties of the Administrative Rules Subcommittee of the Legislative Council under this section to one (1) or more subcommittees of the Legislative Council, which shall be subject to the final review and approval of the Administrative Rules Subcommittee of the Legislative Council.

History: Acts 2021, No. 135, § 2.

17-4-110. Responsibilities of occupational licensing entities.

An occupational licensing entity shall:

(1) Submit proposed rules authorized under § 17-4-106 to the Administrative Rules Subcommittee of the Legislative Council for review and approval before the proposed rules are promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(2) If the proposed rules are not approved as required under § 17-4-109, provide automatic occupational licensure to an individual listed in § 17-4-104;

(3) Post prominently on the occupational licensing entity's website a link entitled "Military Member Licensure" that directly leads to information applicable to an individual listed in § 17-4-104; and

(4) Provide to the House Committee on Aging, Children and Youth, Legislative and Military Affairs an annual report stating the number of individuals granted automatic occupational licensure and expedited occupational licensure under this chapter.

History: Acts 2021, No. 135, § 2.

MEDICAL PROFESSIONS: GENERAL PROVISIONS

17-80-101. Filing and compilation of licensing information.

(a)

(1) The Director of the Arkansas State Medical Board and the Director of the Arkansas State Board of Chiropractic Examiners shall file with the Secretary of State within one (1) week of the issuance of a license:

(A) The name of the person licensed;

(B) The date of license;

(C) The last known post office address of the person licensed; and

(D) Whether the license was granted:

(i) On examination before the Arkansas State Medical Board or the Arkansas State Board of Chiropractic Examiners;

(ii) By reciprocity and, if so, the name of the state which issued the license; or

(iii) On a diploma and, if so, the name of the school or medical college which issued the diploma.

(2) This information shall be verified by the affidavits of the Director of the Arkansas State Medical Board or the Director of the Arkansas State Board of Chiropractic Examiners.

(b) The Secretary of State shall compile the information filed pursuant to subsection (a) of this section in a well-bound book to be kept by him or her for that purpose. He or she shall from time to time, as additional names are filed with him or her by the respective boards, record the names in the book, together with the other information furnished by the boards.

(c) The Secretary of the Department of Health shall report the deaths of all persons licensed by the boards named in subsection (a) of this section to the Secretary of State within a reasonable time after the information has been received in his or her office. The Secretary of State shall thereupon note after the name of the decedent the fact of his or her death and the date thereof.

(d) Any violation of the provisions of this section shall constitute a misdemeanor and be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by imprisonment not exceeding ten (10) days.

History: Acts 1935, No. 148, §§ 1-4; Pope's Dig., §§ 10790-10794; A.S.A. 1947, §§ 72-201 — 72-205; Acts 2019, No. 386, § 37; 2019, No. 910, § 4865.

17-80-102. Subpoena power of boards — Enforcement.

(a)

a) The licensing and disciplining boards of the professions of the healing arts provided in this subtitle shall have the power to issue subpoenas and bring before the board as a witness any person in this state.

b) The secretary or the investigative officer of the board shall issue a subpoena upon the request of any party to a proceeding pending before the board or at the request of the board.

c) The writ shall be directed to the sheriff of the county where the witness resides or may be found.
d) The writ may require the witness to bring with him or her any book, writing, or other thing under his or her control which he or she is bound by law to produce in evidence.
e) Service of the writ shall be in the manner as now provided by statute for the service of subpoenas in civil cases.

(b)
(1) A witness who has been served by subpoena in the manner provided by law and who shall have been paid or tendered the legal fees for travel and attendance as provided by law shall be obligated to attend for examination of the trial of the cause pending before the board.
(2) In the event a witness shall have been served with subpoenas as herein provided and fails to attend the hearing in obedience to the subpoena, the board may apply to the circuit court of the county wherein the board is having its meeting for an order causing the arrest of the witness and directing that the witness be brought before the court.
(3) The court shall have the power to punish the disobedient witness for contempt as now provided by law in the trial of civil cases.
(4) The disobedient witness shall be liable in damages for nonattendance to the trial or hearing as provided by Rev. Stat., ch. 158, § 9 [superseded].

History: Acts 1971, No. 202, §§ 1, 2; A.S.A. 1947, §§ 72-141, 72-142; Acts 1993, No. 392, § 8.

17-80-103. Immunity of board members and individuals acting on behalf of boards including expert witnesses.

A member of a board or any individual acting on behalf of the board of any profession or occupation classified under the laws of the State of Arkansas as a profession of the healing arts, including an expert witness testifying or offering opinions, or both, regarding an administrative proceeding before a board of a profession or occupation classified as a profession of the healing arts, is not liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or otherwise for any action taken or recommendation made within the scope of the functions of the board if the board member or the individual acting on behalf of the board, including an expert witness testifying or offering opinions, or both, regarding an administrative proceeding before a board of a profession or occupation classified as a profession of the healing arts, acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him or her after a reasonable effort is made to obtain the facts on which the action is taken or the recommendation is made.

History: Acts 1977, No. 275, § 1; A.S.A. 1947, § 72-143; Acts 1995, No. 1124, § 1; 2019, No. 687, § 1.

17-80-104. Continuing education requirements.

(a) The regulatory boards of the professions or occupations classified by the laws of the State of Arkansas as professions of the healing arts and for whom the General Assembly has heretofore established regulatory boards empowered to license persons who practice under conditions of licensure authorized by the General Assembly are authorized to adopt rules requiring the continuing education of the persons licensed by the board.

(b) All rules establishing requirements for continuing education under the provisions of this section shall be adopted in the manner and method set out in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for the adoption of rules.

(c) The regulatory boards shall establish by rule the number of hours of credit and the manner and methods of obtaining the hours of credit by its licensee.

(d) In the event a licensee of the board does not complete the continuing education established by the board under the provisions of this section, the board is empowered to deny renewal of the license held by the licensee or after proper hearing take such action as it considers just and proper to compel compliance with its rules requiring continuing education.

History: Acts 1977, No. 767, §§ 1-3; A.S.A. 1947, §§ 6-1401—6-1403; Acts 2019, No. 315, § 1500.

17-80-105. Professional review under federal act.

(a) The State of Arkansas hereby elects the early options in the provision provided in the Health Care Quality Improvement Act of 1986, for all healthcare entities subject to that act.

(b) This section and powers granted shall be liberally and broadly construed so as to effectuate the legislative intent.

History: Acts 1989, No. 104, § 1, 3.

17-80-106. Investigations and inspections of alleged wrongdoing.

(a) The Arkansas State Medical Board, the Arkansas State Board of Dental Examiners, the Arkansas State Board of Nursing, the Veterinary Medical Examining Board, the Arkansas Board of Podiatric Medicine, the State Board of Optometry, and the Arkansas State Board of Physical Therapy are authorized to utilize as their employees, as the investigators for the purposes described in this section, the investigators and inspectors of the Division of Pharmacy Services and Drug Control of the Department of Health.

(b) The Department of Health is directed to make investigators and inspectors of the division available for those purposes and for as long as they may conduct investigations and inspections of alleged wrongdoing of those individuals licensed or permitted by the Arkansas State Medical Board, the Arkansas State Board of Dental Examiners, the Arkansas State Board of Nursing, the Veterinary Medical Examining Board, the Arkansas Board of Podiatric Medicine, the State Board of Optometry, and the Arkansas State Board of Physical Therapy.

(c) Upon written request of a person authorized by the respective licensing board and with authorization by the Director of the Division of Pharmacy Services and Drug Control of the Department of Health pursuant to appropriate authority from the board, the investigators may investigate, inspect, and make copies of medical records, dental records, nursing records, drug orders, prescriptions, veterinary records, and podiatry records, wherever located, of all persons licensed by the medical, optometric, dental, nursing, veterinary, podiatric, and physical therapy boards in order for the respective licensing board to determine whether or not any persons have:

(1) Violated the laws of the State of Arkansas or of the United States respecting the prescribing, administering, and use of narcotics and potentially dangerous drugs;

(2) Practiced their profession in such a way as to endanger the general health and welfare of the public; or

(3) Otherwise violated the practice act or rules of that respective board.

(d) Copies of records, prescriptions, or orders shall not become public records by reason of their use in disciplinary proceedings held by the licensing board, nor shall the patients' or licensed medical professionals' property rights to the prescriptions, orders, or records be extinguished by that use.

(e)

(1) The investigators may obtain copies of prescriptions, orders, and records as admissible evidence without the necessity of the issuance of an administrative inspection warrant or search warrant as authorized by § 5-64-502.

(2) However, investigators must have in their possession an authorization by the division.

(3) The licensee may refuse the request of the investigator and not tender copies of the records.

(4)

(A) If prescriptions, orders, or records are to be used in criminal proceedings, they shall be obtained by investigators only on an administrative inspection warrant.

(B) No inspection warrant is necessary when prescriptions, orders, or records are to be used solely for board disciplinary purposes.

(f) In lieu of a letter of authority, each of the boards will have the power to issue to the investigators a subpoena to obtain copies of the records referred to in this section, and the investigators will have the authority to serve the subpoena and collect the records.

(g) If a witness served with a subpoena fails to honor the subpoena, the particular board issuing the subpoena may apply to the circuit court for remedies as provided in the Arkansas Rules of Civil Procedure. The court shall have the power to punish the disobedient witness for contempt as is now provided by law in the trial of civil cases.

(h)

(1) The division shall have the authority to collect from the individual board utilizing the services delineated in this section up to fifty dollars ($50.00) per hour with a maximum of four thousand dollars ($4,000) in hourly costs per case.

(2) The division shall also have the authority to collect from the individual board utilizing the services delineated in this section for:

(A) Travel expenses at the level for state employees; and

(B) Other out-of-pocket costs incurred by the division in carrying out its investigative task.

(i) The Arkansas State Medical Board, the Arkansas State Board of Dental Examiners, the Arkansas State Board of Nursing, the Veterinary Medical Examining Board, the Arkansas Board of Podiatric Medicine, the State Board of Optometry, and the Arkansas State Board of Physical Therapy are authorized to collect costs incurred under subsection (h) of this section from the licensees being investigated by the division.

(j) All funds collected under subsection (h) of this section are declared to be special revenues and shall be deposited into the State Treasury and credited to the Public Health Fund to be used exclusively by the division for investigations conducted under this section.
(k) Subject to rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Health is authorized to transfer all unexpended funds collected under this section as certified by the Chief Fiscal Officer of the State to be carried forward and made available for expenditures for the same purpose for any following fiscal year.
History: Acts 1993, No. 1146, § 1; 1997, No. 493, § 1; 2001, No. 455, § 1; 2003, No. 1076, § 1; 2005, No. 1410, § 1; 2019, No. 315, §§ 1501, 1502.

17-80-107. "Physician" defined.

For the purposes of the "Good Samaritan" law, § 17-95-101, and any other law of this state which takes effect on or after January 1, 1994, the term "physician" means a person licensed by the Arkansas State Medical Board, the Arkansas State Board of Chiropractic Examiners, or the Arkansas Board of Podiatric Medicine.
History: Acts 1993, No. 1190, § 1.

17-80-108. Disciplinary or corrective measures.

(a) Any assistance rendered with any execution carried out pursuant to § 5-4-617 by any licensed healthcare professional, including, but not limited to, physicians, nurses, and pharmacists, shall not be cause for any disciplinary or corrective measures by any board or commission created by the state or governed by state law which oversees or regulates the practice of healthcare professionals, including, but not limited to, the Arkansas State Medical Board, the Arkansas State Board of Nursing, and the Arkansas State Board of Pharmacy.
(b) The infliction of the punishment of death by administration of the required lethal substances in the manner required by § 5-4-617 shall not be construed to be the practice of medicine.
History: Acts 1995, No. 651, § 1.

17-80-109. Definitions

As used in this act:

(1) "Healing arts" means the practice of any type of profession requiring special education and skill that promotes healing of the human body or that relates to the prevention of illness or disease; and
(2) "Healthcare service" means that service offered or provided relating to the prevention, cure, or treatment of illness, injury, or disease and includes services performed by healing arts practitioners.

History: Acts 1999, No. 338, § 1.

17-80-110. Using "Doctor" as title in documentation.

In any written document or electronically transmitted document in connection with the provision of a healthcare service, no person shall use the title "Doctor", unless that title is authorized under § 17-1-101 et seq., in which case that person shall use the title in accordance with the statutes and rules governing the particular healthcare profession or unless that person has been granted a doctoral degree in any healing arts profession and is licensed in that profession under § 17-1-101 et seq.
History: Acts 1999, No. 338, § 2; 2019, No. 315, § 1503.

17-80-111. Restrictions on "Doctor" as title in advertising.

No person shall advertise or allow oneself to be advertised by the title "Doctor" in association with the practice of one (1) of the healing arts, except in the practice of one (1) of the healthcare professions regulated under § 17-1-101 et seq., in which case that person shall use the title in accordance with the statutes and rules governing the particular healthcare profession or unless that person has been granted a doctoral degree in any healing arts profession and is licensed in that profession under § 17-1-101 et seq.
History: Acts 1999, No. 338, § 3; 2019, No. 315, § 1504.

17-80-112. Use of "Doctor" as title in provision of healthcare services.

In connection with the provision of healthcare services, no person shall call oneself or allow oneself to be called by the title "Doctor", except in the practice of one (1) of the healthcare professions regulated under § 17-1-101 et seq., in which case the person shall use the title in accordance with the statutes and rules governing the particular healthcare profession.
History: Acts 1999, No. 338, § 4; 2019, No. 315, § 1505.

17-80-113. Authorized use of "Doctor" as title.

This act shall not be construed to authorize any person to use the title "Doctor", unless that title is authorized under § 17-1-101 et seq., in which case that person shall use the title in accordance with the statutes and rules governing the particular healthcare profession or unless that person has been granted a doctoral degree in any healing arts profession and is licensed in that profession under § 17-1-101 et seq.

History: Acts 1999, No. 338, § 5; 2019, No. 315, § 1506.

17-80-114. Scope of practice — Complaints — Definition.

(a) As used in this section, "healing arts" means the practice of any type of profession requiring special education and skill that promotes healing of the human body or that relates to the prevention of illness or disease.

(b) (A board of the healing arts shall not take disciplinary action at the board level against a licensee of another board of the healing arts except as provided in subsections (c) and (d) of this section.

(c)

(1) If a licensee or a member of a board of the healing arts believes that a licensee of another board of the healing arts is practicing outside that licensee's proper scope of practice, the licensee or member may file a complaint with his or her own board but may not file the complaint with any other board of the healing arts.

(2) A board of the healing arts that receives a complaint regarding the proper scope of practice of a licensee of another board of the healing arts may file the complaint with that other board.

(3) A board of the healing arts receiving a complaint from another board of the healing arts shall:

(A) Investigate the complaint;

(B) Take whatever action that board considers appropriate under its practice act and the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to determine whether the licensee was practicing outside the licensee's proper scope of practice; and

(C) Communicate the final disposition of the complaint to:

(i) The licensee who is the subject of the complaint; and

(ii) The board of the healing arts that filed the complaint.

(d)

(1) With respect to the scope of practice issue, in any subsequent proceeding before the board of the healing arts that filed the complaint and in any subsequent judicial proceeding, the determination of the board of the healing arts that received the complaint shall be dispositive unless the findings, inferences, conclusions, or decisions of the board of the healing arts that received the complaint are:

(A) In violation of constitutional or statutory provisions;

(B) In excess of the statutory authority of the board of healing arts that received the complaint;

(C) Made upon unlawful procedure;

(D) Affected by other error or law;

(E) Not supported by substantial evidence of record; or

(F) Arbitrary, capricious, or characterized by abuse of discretion.

(2) This subsection (d) applies to judicial review under § 25-15-212 of action taken by the board of the healing arts that filed the complaint.

History: Acts 2003, No. 341, § 1; 2007, No. 72, § 1; 2017, No. 252, §§ 9-11.

17-80-115. Jewelry eye implants.

(a) Except as provided in subsection (b) of this section, no person shall implant jewelry into the mucous membrane of the eye of another person.

(b) The Arkansas State Medical Board may authorize and regulate the practice of implanting jewelry into the mucous membrane of an eye.

History: Acts 2005, No. 1688, § 2

17-80-116. Criminal background checks.

(a) Any healthcare professional with prescriptive authority may request information on a person through the Arkansas Crime Information Center before writing or issuing a prescription to the person for a drug to treat erectile dysfunction.

(b)

(1) A healthcare professional is not liable for negligence for failing to request information under subsection (a) of this section before writing or issuing a prescription to a person for a drug to treat erectile dysfunction.

(2) Evidence of the failure of a healthcare professional to request information under subsection (a) of this section is not admissible as evidence of negligence in any court or administrative proceeding.

History: Acts 2006 (1st Ex. Sess.), No. 4, § 9.

17-80-117. Definitions — Substance Abuse Reporting Act.

(a) As used in this section:

(1) "Disciplinary action" means an action taken by a required reporter to terminate:

(A) The employment of a healthcare professional;

(B) A contractual arrangement with a healthcare professional; or

(C) The clinical privileges of a healthcare professional;

(2) "Healthcare professional" means an individual who is licensed, certified, or otherwise authorized by a licensing authority of this state to administer healthcare services in the ordinary course of his or her business or practice;

(3) "Licensing authority" means a government agency or board charged with licensing, certifying, or authorizing a healthcare professional to administer health care in this state; and

(4) "Required reporter" means:

(A) A facility licensed by the Division of Health Facilities Services;

(B) A facility licensed by the Office of Long-Term Care of the Division of Medical Services of the Department of Human Services; and

(C) Any other entity that employs or contracts with healthcare professionals to provide healthcare services to individuals in the State of Arkansas.

(b) The chief executive officer or an official agent of a required reporter or his or her designee shall report to the appropriate licensing authority the following:

(1) A final disciplinary action taken against a healthcare professional as a result of the diversion, misuse, or abuse of illicit drugs or controlled substances as defined by state and federal law by a healthcare professional; and

(2) The voluntary resignation of any healthcare professional against whom a disciplinary action arising from the diversion, misuse, or abuse of illicit drugs or controlled substances as defined by state and federal law by a healthcare professional if a disciplinary action is pending.

(c) A report required by subsection (b) of this section shall be submitted within seven (7) days of the final disciplinary action or voluntary resignation and shall include without limitation:

(1) The name, address, and telephone number of the person who is the subject of the report; and

(2) A description of the facts giving rise to the issuance of the report.

(d) If a licensing authority receiving a report of disciplinary action under subsection (b) of this section determines, after investigation and due process, that a criminal act may have been committed involving the diversion of controlled substances to one (1) or more third parties by the healthcare professional, the licensing authority shall report the information to the local office of the United States Diversion Control Division of the United States Drug Enforcement Administration.

(e) The chief executive officer or an official agent of a required reporter, or his or her designee, shall report to the appropriate law enforcement agency any final disciplinary action taken against an employee as a result of his or her diversion of controlled substances to one (1) or more third parties when the employee is not a healthcare professional.

(f) The following information shall be exempt from the reporting requirements of this section:

(1) Information learned or maintained in connection with an alcohol or drug prevention function that is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States to the extent that the reporting is in violation of 42 U.S.C. § 290dd-2 or federal regulations adopted relating to 42 U.S.C. § 290dd-2, as it existed on January 1, 2015; and

(2) Information learned or maintained by a required reporter in the course of providing healthcare services to the healthcare professional.

(g) The duty to report under this section does not require disclosure of communications, proceedings, minutes, records, or reports that are privileged under § 16-46-105, § 16-46-109, § 20-9-503, or any other law of the state.

(h) The duty to report that is required under this section is in addition to, and is not a substitute for, other reporting requirements imposed by applicable federal and state law, including without limitation:

(1) Reporting the theft or loss of controlled substances under the federal Controlled Substances Act, 21 U.S.C. § 801 et seq.; and

(2) Reporting physician misconduct under § 17-95-104.

(i) A required reporter or its agents or employees shall not be liable to any person and are immune from civil liability for filing a report required by this section and the contents of the report.

History: Acts 2015, No. 411, § 1.

17-80-118. [Repealed.]

17-80-119. Medical education background checks.

(a) Upon application to a medical education program or school, the applicant shall undergo a state and federal criminal background check.
(b) The student shall be responsible for payment for a state and federal criminal background check.
(c) A medical program or school shall establish criteria by which the passage of the criminal background check is determined based upon the medical profession criteria for licensure.
History: Acts 2015, No. 1192, § 1.

17-80-120. Signature authority for advanced practice registered nurses and physician assistants.

(a) When a provision of law or rule requires a signature, certification, stamp, verification, affidavit, or endorsement by a physician, the requirement may be fulfilled by an advanced practice registered nurse or a physician assistant in any of the following circumstances:

(1) Certification of disability for patients to receive disabled parking permits or placards from the Office of Motor Vehicle; or
(2) Signature for:
(A) Sports physicals to authorize student athletes to participate in athletic activities;
(B) Physicals for bus drivers;
(C) Forms relating to do-not-resuscitate orders;
(D) Forms excusing a potential jury member due to an illness;
(E) Death certificates;
(F) Workers' compensation forms;
(G) Forms relating to absenteeism for employment or school purposes; or
(H) Authorizations for durable medical equipment.

(b) This section does not expand the scope of practice of an advanced practice registered nurse or physician assistant.
History: Acts 2017, No. 372, § 1.

17-80-121. Unlawful female genital mutilation by a medical professional.

(a) A state agency, board, or commission authorized to issue a license to a medical professional under the laws of this state shall institute disciplinary action against a licensed medical professional over whom the state agency, board, or commission has jurisdiction and who is convicted of unlawful female genital mutilation of a minor, § 5-14-136.
(b) The state agency, board, or commission instituting a disciplinary action as described in this section may take any measure authorized to discipline the licensed medical professional, including the revocation of any license.
History: Acts 2019, No. 556, § 5.

17-80-122. Preserving freedom of conscience and medical judgment for healthcare professionals.

State law shall not require, or be construed to require, a healthcare professional to perform a gender transition procedure.
History: Acts 2023, No. 274, § 2.

IMPAIRED PHYSICIAN AND DENTIST TREATMENT ACT

17-80-201. Short title.

This subchapter shall be known as the "Impaired Physician and Dentist Treatment Act".
History: Acts 1993, No. 1220, § 1.

17-80-202. Purpose.

The purpose of this subchapter is to provide for the identification and treatment of physicians and dentists licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., who suffer from impairment, in order to promote the public health and safety and to ensure the continued availability of the skills of highly trained medical and dental professionals for the benefit of the public.

History: Acts 1993, No. 1220, § 2.

17-80-203. Definitions.

As used in this subchapter:

(1) "Board" means the Arkansas State Medical Board with reference to physicians and the Arkansas State Board of Dental Examiners with reference to dentists;

(2) "Dentists' health committee" means a dentist committee of the Arkansas State Dental Association composed of dentists who have expertise in the area of alcoholism, drug abuse, or mental illness, and that has been designated by the Arkansas State Dental Association to perform any and all of the activities set forth in subdivision (4) of this section;

(3) "Impaired" or "impairment" means the presence of the diseases of alcoholism, drug abuse, or mental illness;

(4) "Impaired dentist program" means the Arkansas State Dental Association-sponsored program for the detection, intervention, and monitoring of impaired dentists;

(5) "Impaired physician program" means the Arkansas Medical Society, Inc.-sponsored program for the detection, intervention, and monitoring of impaired physicians;

(6) "Physicians' health committee" means a physician committee of the Arkansas Medical Society, Inc. composed of physicians who have expertise in the area of alcoholism, drug abuse, or mental illness, and that has been designated by the Arkansas Medical Society, Inc. to perform any and all activities set forth in subdivision (5) of this section;

(7)

(A) "Professional incompetence" means the inability or failure of a physician or dentist to practice his or her respective professions with reasonable skill and safety.

(B) Impairment in and of itself shall not give rise to a presumption of professional incompetence; and

(8) "Treatment program" means a plan of care and rehabilitation services provided by those organizations and persons authorized to provide such services for impaired physicians and dentists taking part in the programs provided under this subchapter.

History: Acts 1993, No. 1220, § 3; 2017, No. 252, § 12.

17-80-204. Authority.

The Arkansas Medical Society, Inc. shall have the authority to establish a physicians' health committee and the Arkansas State Dental Association shall have the authority to establish a dentists' health committee to undertake the functions and responsibilities to carry out the purposes of this subchapter and may include any of the following:

(1) Contracting with providers of treatment programs;
(2) Receiving and evaluating reports of suspected impairment from any source;
(3) Intervening in cases of verified impairment;
(4) Referring impaired physicians or dentists to treatment programs;
(5) Monitoring the treatment and rehabilitation of impaired physicians or dentists;
(6) Providing posttreatment monitoring and support of rehabilitated impaired physicians and dentists; and
(7) Performing such other activities as the committees deem necessary to accomplish the purposes of this subchapter.

History: Acts 1993, No. 1220, § 4.

17-80-205. Procedures.

The physicians' health committee and the dentists' health committee shall develop procedures for:

(1) Immediate reporting to the appropriate board of the names and results of any contact or investigation regarding any impaired physician or impaired dentist who is believed to constitute an imminent danger to the public or to himself or herself;
(2) Reporting to the appropriate board in a timely fashion any impaired physician or any impaired dentist who refuses to cooperate with the respective committee, refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment, and who, in the opinion of the respective committee, exhibits professional incompetence; and
(3) Informing each participant of the impaired physician program or the impaired dentist program of the program procedures, responsibilities of program participants, and the possible consequences of noncompliance with the program.

History: Acts 1993, No. 1220, § 5.

17-80-206. Evaluations.

(a) If the Arkansas State Medical Board has reason to believe that a physician is impaired or if the Arkansas State Board of Dental Examiners has reason to believe that a dentist is impaired, either board may cause an evaluation of the physician or dentist to be conducted by the appropriate committee for the purpose of determining if there is an impairment.

(b) The physicians' health committee or the dentists' health committee shall report the findings of its evaluation to its respective board.

History: Acts 1993, No. 1220, § 6.

17-80-207. Request for restricted license.

(a)

(1) An impaired physician or an impaired dentist may request in writing to the appropriate board for a restriction of his or her license to practice.

(2) The board may grant such a request for restriction and shall have authority to attach conditions to the licensure of the physician to practice medicine or the dentist to practice dentistry within specified limitations.

(b) Removal of a voluntary restriction on licensure to practice medicine or dentistry shall be subject to the procedure for reinstatement of licensure pursuant to the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., or the Arkansas Dental Practice Act, § 17-82-101 et seq.

History: Acts 1993, No. 1220, § 7.

17-80-208. Confidentiality of records.

(a)

(1) Notwithstanding any provision of state law, records of the physicians' health committee pertaining to an impaired physician and all records of the dentists' health committee pertaining to an impaired dentist shall be kept confidential and are not subject to discovery or subpoena.

(2) No person in attendance at any meeting of the physicians' health committee or the dentists' health committee shall be required to testify as to any committee discussions or proceedings.

(b) However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such action merely because they were presented during the proceedings of the committee, nor shall any person who testifies before the committee or who is a member of the committee be prevented from testifying as to matters within his or her knowledge, but the witness shall not be asked about his or her testimony before the committee or about opinions formed by him or her as a result of the committee hearings.

History: Acts 1993, No. 1220, § 8.

17-80-209. Participation in treatment program.

An impaired physician who is participating in or has successfully completed a treatment program pursuant to this subchapter shall not be excluded from any hospital staff solely because of such participation.

History: Acts 1993, No. 1220, § 9.

17-80-210. Limitation on liability.

(a) Notwithstanding any other provisions of law, the Arkansas Medical Society, Inc., the Arkansas Osteopathic Medical Association, the physicians' health committee and members thereof, the Arkansas State Dental Association, and the dentists' health committee and members thereof shall not be held liable in damages to any person for any acts, omissions, or recommendations made by them in good faith while acting within the scope of their responsibilities pursuant to this subchapter.

(b) No person who in good faith and without malice makes a report to the physicians' health committee or to the dentists' health committee shall be liable for damages to any person.

History: Acts 1993, No. 1220, § 10; 2001, No. 929, § 1.

TELEMEDICINE ACT

17-80-401. Title.

This subchapter shall be known and may be cited as the “Telemedicine Act”.

History: Acts 2017, No. 203, § 2.

17-80-402. Definitions.

As used in this subchapter:

(1) "Distant site" means the location of the healthcare professional delivering services through telemedicine at the time the services are provided;

(2) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(3)

(A) "Originating site" means a site at which a patient is located at the time healthcare services are provided to him or her by means of telemedicine.

(B) "Originating site" includes the home of a patient;

(4) "Professional relationship" means at a minimum a relationship established between a healthcare professional and a patient when:

(A) The healthcare professional has previously conducted an in-person examination of the patient and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;

(B) The healthcare professional personally knows the patient and the patient's relevant health status through an ongoing personal or professional relationship and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;

(C) The treatment is provided by a healthcare professional in consultation with, or upon referral by, another healthcare professional who has an ongoing professional relationship with the patient and who has agreed to supervise the patient's treatment, including follow-up care;

(D) An on-call or cross-coverage arrangement exists with the patient's regular treating healthcare professional or another healthcare professional who has established a professional relationship with the patient;

(E)

(i) A relationship exists in other circumstances as defined by rule of the Arkansas State Medical Board for healthcare professionals under its jurisdiction and their patients.

(ii) A relationship established under rules of the Arkansas State Medical Board may be utilized for telehealth certification;

(F) A relationship exists in other circumstances as defined by rule of a licensing or certification board for other healthcare professionals under the jurisdiction of the appropriate board and their patients if the rules are no less restrictive than the rules of the Arkansas State Medical Board; or

(G)

(i) The healthcare professional who is licensed in Arkansas has access to a patient's personal health record maintained by a healthcare professional and uses any technology deemed appropriate by the healthcare professional, including the telephone, with a patient located in Arkansas to diagnose, treat, and if clinically appropriate, prescribe a noncontrolled drug to the patient.

(ii) For purposes of this subchapter, a health record may be created with the use of telemedicine and consists of relevant clinical information required to treat a patient, and is reviewed by the healthcare professional who meets the same standard of care for a telemedicine visit as an in-person visit;

(5) "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a healthcare professional at a distant site for use in the treatment and management of medical conditions that require frequent monitoring;

(6) "Store-and-forward technology" means the asynchronous transmission of a patient's medical information from a healthcare professional at an originating site to a healthcare professional at a distant site;

(7) "Telehealth certification" means the electronic assessment of a patient by a practitioner in connection with an application for a registry identification card under § 5 of the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98; and

(8)

(A) "Telemedicine" means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient.

(B) "Telemedicine" includes store-and-forward technology and remote patient monitoring.

(C) "Telemedicine" does not include the use of audio-only electronic technology by a physician to renew a written certification that was previously issued to the same patient.

History: Acts 2017, No. 203, § 2; 2021, No. 767, § 1; 2021, No. 829, § 1; 2021, No. 1112, §§ 1-3.

17-80-403. Establishment of professional relationship.

(a)

(1) A healthcare professional at a distant site shall not utilize telemedicine with respect to a patient located in Arkansas unless a professional relationship exists between the healthcare professional and the patient or the healthcare professional otherwise meets the requirements of a professional relationship as defined in § 17-80-402.

(2) The existence of a professional relationship is not required in the following circumstances:

(A) Emergency situations where the life or health of the patient is in danger or imminent danger; or

(B) Simply providing information of a generic nature, not meant to be specific to an individual patient.

(b) If the establishment of the professional relationship is permitted via telemedicine under § 17-80-402(4)(E) or § 17-80-402(4)(F), telemedicine may be used to establish the professional relationship only for situations in which the standard of care does not require an in-person encounter.

(c) "Professional relationship" does not include a relationship between a healthcare professional and a patient established only by the following:

(1) An internet questionnaire;

(2) An email message;

(3) Patient-generated medical history;

(4) Text messaging;

(5) A facsimile machine; or

(6) Any combination of means listed in subdivisions (c)(1)-(5) of this section.

History: Acts 2017, No. 203, § 2; 2021, No. 829, § 2.

17-80-404. Appropriate use of telemedicine.

(a)

(1) A professional relationship shall be established in compliance with § 17-80-403 to provide healthcare services through telemedicine.

(2) Once a professional relationship is established, a healthcare professional may provide healthcare services through telemedicine, including interactive audio, if the healthcare services are within the scope of practice for which the healthcare professional is licensed or certified and the healthcare services otherwise meet the requirements of this subchapter.

(3) A licensing or certification board shall not permit the use of telemedicine in a manner that is less restrictive than the use of telemedicine authorized by the Arkansas State Medical Board.

(b)

(1) Regardless of whether the healthcare professional is compensated for the healthcare services, if a healthcare professional seeks to provide healthcare services to a minor through telemedicine in a school setting and the minor is enrolled in the Arkansas Medicaid Program, the healthcare professional shall:

(A) Be the designated primary care provider of the minor;

(B) Have a cross-coverage arrangement with the designated primary care provider of the minor; or

(C) Have authorization from the designated primary care provider of the minor.

(2) If the minor does not have a designated primary care provider, subdivision (b)(1) of this section does not apply.

(3) If a minor is enrolled in a health benefit plan as defined in § 23-79-1601 that is not part of the Arkansas Medicaid Program, the terms and conditions of the health benefit plan shall control.

(4) The designation of a primary care provider for a minor remains the right of a parent or legal guardian in accordance with § 20-9-601 et seq.

(c) Healthcare services provided by telemedicine, including without limitation a prescription through telemedicine, shall be held to the same standard of care as healthcare services provided in person.

(d)

(1) A healthcare professional who is treating patients in Arkansas through telemedicine shall be fully licensed or certified to practice in Arkansas and is subject to the rules of the appropriate state licensing or certification board.

(2) The requirement in subdivision (d)(1) of this section does not apply to the acts of a healthcare professional located in another jurisdiction who provides only episodic consultation services.

(e) A healthcare professional shall follow applicable state and federal law, rules, and regulations for:

(1) Informed consent;
(2) Privacy of individually identifiable health information;
(3) Medical recordkeeping and confidentiality; and
(4) Fraud and abuse.

(f)
(1) A healthcare professional may use telemedicine to perform group meetings for healthcare services, including group therapy.
(2) Telemedicine for group therapy provided to adults who are participants in a program or plan authorized and funded under 42 U.S.C. § 1396a, as approved by the United States Secretary of Health and Human Services, may only be permitted if the Centers for Medicare & Medicaid Services allows telemedicine for group therapy provided to adults.
(3) Telemedicine shall not be used for group therapy provided to a child who is eighteen (18) years of age or younger.

History: Acts 2017, No. 203, § 2; 2021, No. 767, § 2.

17-80-405. Liability — Noncompliance.

(a) If a decision is made to provide healthcare services through telemedicine, the healthcare professional accepts responsibility and liability for the care of the patient.
(b) Noncompliance with this subchapter is a violation of the practice act of the healthcare professional.
History: Acts 2017, No. 203, § 2.

17-80-406. Rules.

State licensing and certification boards for a healthcare professional shall amend their rules where necessary to comply with this subchapter.
History: Acts 2017, No. 203, § 2.

17-80-407. Construction.

This subchapter does not:
(1) Alter existing state law or rules governing a healthcare professional's scope of practice; or
(2) Authorize drug-induced, chemical, or surgical abortions performed through telemedicine.

History: Acts 2017, No. 203, § 2

OSTEOPATHS

17-91-101. Osteopathic physician – Licensing requirements.

(a) The Arkansas State Medical Board shall accept for licensure by examination any person who:
(1) Is at least twenty-one (21) years of age;
(2) Is a citizen or a legal resident of the United States;
(3) Has not been found guilty of acts constituting unprofessional conduct as defined in the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.;
(4) Is a graduate of an osteopathic college of medicine whose course of study has been recognized by the American Osteopathic Association Commission on Osteopathic College Accreditation; and
(5) Has completed a one-year internship in a hospital approved by the American Medical Association or the American Osteopathic Association.

Applicants for such a licensure shall pay the fees required by the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

(b)
(1) The board shall not increase or set assessed fees exceeding the amounts in this section.
(2) If the board determines in its discretion that a reduction is in the best interest of the state, the board may reduce fees below the amounts in this section through the administrative rule process and by the approval of the Governor and either the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

History: Acts 1971, No. 650, §§ 1, 2; A.S.A. 1947, §§ 72-911, 72-912; Acts 2001, No. 929, § 2; 2019, No. 607, § 1; 2019, No. 910, § 2249; 2019, No. 990, § 88; 2023, No. 79, § 2.

17-91-102. Examination.

(a) The examination given to the applicants shall be:
    (1) The same examination given to all other applicants for medical licensure;
    (2) Given at the same time and place as the examination given to the other applicants; and
    (3) Graded as all other examinations.

(b) The National Board of Osteopathic Medical Examiners develops examinations for licensure of osteopathic physicians.

History: Acts 1971, No. 650, § 3; A.S.A. 1947, § 72-913; Acts 2001, No. 929, § 3.

17-91-103. Effect of licensing.

(a) The license issued to a person meeting the qualifications set out in this chapter and successfully passing the examination shall be the same license to practice medicine and surgery in the State of Arkansas as is regularly issued by the Arkansas State Medical Board and shall entitle the holder thereof to practice medicine and surgery in the State of Arkansas.

(b) The holder of the license shall be subject to all the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., including the payment of the fees set out therein.

(c) Any reference to "medical doctor" or "physician" shall be deemed to include a Doctor of Osteopathy, or D.O., or an osteopathic physician unless any of those terms is specifically excluded.

History: Acts 1971, No. 650, § 4; A.S.A. 1947, § 72-914; Acts 2001, No. 929, § 4.

INTERNET PRESCRIBING

17-92-1001. Title.

This subchapter may be known and cited as the "Arkansas Internet Prescription Consumer Protection Act".

History: Acts 2001, No. 1411, § 1.

17-92-1002. Purpose.

The purpose of this subchapter is to require internet pharmacies to:
    (1) Make certain disclosures on their internet sites;
    (2) List the principals, pharmacists, and physicians associated with the internet sites; and
    (3) Include amending licensing requirements for pharmacists and physicians to address prescribing and dispensing medication via the internet.

History: Acts 2001, No. 1411, § 2.

17-92-1003. Definitions.

As used in this subchapter:
    (1) "Deliver" means the actual, constructive, or attempted transfer from one (1) person to another of any drug whether or not an agency relationship exists;
    (2) "Dispense" means to deliver prescription medication to the ultimate user or research subject pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner;
    (3) "Distribute" means to deliver, other than by administering or dispensing, any drug;
    (4) "Electronic mail" means any message transmitted through the international network of interconnected government, educational, and commercial computer networks, including without limitation messages transmitted from or to any address affiliated with an internet site;
    (5) "Foreign entity" means any corporation, limited liability company, or other body corporate organized under the law of any jurisdiction other than the State of Arkansas;
    (6) "Internet broker" means an entity that serves as an agent or intermediary or other capacity that causes the internet to be used to bring together a buyer and seller to engage in the dispensing of prescription-only drugs;
    (7) "Internet site" means a specific location on the international network of interconnected government, educational, and commercial computer networks that is determined by internet protocol numbers, by a domain name, or by both, including without limitation domain names that use the designations ".com", ".edu", ".gov", ".org", and ".net";

(8) "Person" means any individual, corporation, partnership, limited liability company, limited liability partnership, limited partnership, association, joint venture, or any other legal or commercial entity, whether foreign or domestic;

(9) "Pharmacist" means any natural person licensed under this subchapter to practice pharmacy;

(10) "Pharmacy", "drug store", or "apothecary" means premises, laboratory, area, or other place:

(A) Where drugs are offered for sale, where the profession of pharmacy is practiced, and where prescriptions are compounded and dispensed;

(B) Which has displayed upon it or within it the words "pharmacist", "pharmaceutical chemist", "pharmacy", "apothecary", "drugstore", "druggist", "drugs", "drug sundries", or any of these words or combination of these words; or

(C) Where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited;

(11) "Practitioner" means:

(A) A person licensed to practice medicine and surgery, dentistry, podiatry, veterinary medicine, or optometry licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee; or

(B) A scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug;

(12) "Premises" means the portion of any building or structure leased, used, or controlled by the licensee in the conduct of the business registered by the Arkansas State Board of Pharmacy at the address for which the registration was issued;

(13)

(A) "Prescription-only drug" means any drug, whether intended for use by man or animal, required by federal or state law to be dispensed only pursuant to a written or oral prescription or order of a practitioner or that is restricted to use by practitioners only.

(B) "Prescription-only drug" does not mean contact lenses;

(14)

(A) "Prescription order" means:

(i) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner or a mid-level practitioner in the authorized course of professional practice; or

(ii) An order transmitted to a pharmacist through word of mouth, note, telephone, or other means of communication directed by the practitioner or mid-level practitioner.

(B) In the absence of a prior and proper patient-practitioner relationship, "prescription order" does not include an order for a prescription-only drug issued solely in response to:

(i) An internet questionnaire;

(ii) An internet consultation; or

(iii) A telephonic consultation; and

(15) "Proper practitioner-patient relationship" means that before the issuance of a prescription, a practitioner, physician, or other prescribing health professional performs a history and in-person physical examination of the patient adequate to establish a diagnosis and to identify underlying conditions or contraindications to the treatment recommended or provided unless:

(A) The prescribing practitioner is consulting at the specific request of another practitioner who:

(i) Maintains an ongoing relationship with the patient;

(ii) Has performed an in-person physical examination of the patient; and

(iii) Has agreed to supervise the patient's ongoing care and use of prescribed medications;

(B) The prescribing practitioner interacts with the patient through an on-call or cross-coverage situation; or

(C) The relationship is established through telemedicine pursuant to the Telemedicine Act, § 17-80-401 et seq.

History: Acts 2001, No. 1411, § 3; 2007, No. 128, § 1; 2009, No. 355, § 8; 2017, No. 203, § 3; 2017, No. 252, §§ 14, 15.

17-92-1004. Requirements for internet sales.

(a) A pharmacy operating within or outside Arkansas shall not sell, dispense, distribute, deliver, or participate in the sale, dispensing, distribution, or delivery of a prescription-only drug to any consumer in this state through an internet site or by electronic mail unless:

(1) All internet sites and electronic mail used by the person for purposes of sales or delivery of a prescription-only drug are in compliance with all requirements of federal law applicable to the internet site or electronic mail;

(2)

(A) The pharmacy that sells, dispenses, distributes, or delivers the prescription-only drug is in compliance with all requirements of relevant state law.

(B) The pharmacy shall be properly regulated by the Arkansas State Board of Pharmacy to engage in the practice of pharmacy pursuant to *§ 17-92-101* et seq.;

(3) The pharmacist who fills the prescription order is in compliance with subsection (c) of this section;

(4)

(A) Any pharmacy that participates in the sale of a prescription-only drug is in compliance with subsection (d) of this section.

(B) Any pharmacy that participates in the sale of a prescription-only drug is in compliance with an Arkansas prescription drug monitoring program, if an Arkansas prescription drug monitoring program exists;

(5)

(A) The pharmacy, if a foreign entity, is registered with the Secretary of State and is in compliance with all requirements for foreign corporations provided in any applicable state law.

(B) Nothing in this subdivision (a)(5) shall be construed to authorize any corporation to engage in the practice of medicine contrary to any applicable Arkansas law; and

(6) Any practitioner who sells, dispenses, distributes, or delivers the prescription-only drug is in compliance with all requirements of relevant state law.

(b) Any practitioner who writes a prescription order through an internet site or electronic mail for a consumer physically located in this state who is not an established patient shall be licensed by the applicable licensing board and in compliance with all applicable laws.

(c) A pharmacist practicing within or outside Arkansas may not fill a prescription order to dispense a prescription-only drug to a patient if the pharmacist knows or reasonably should have known under the circumstances that the prescription order was issued:

(1) On the basis of:

(A) An internet questionnaire;

(B) An internet consultation; or

(C) A telephonic consultation; and

(2) Without a valid prior patient-practitioner relationship.

(d)

(1) An internet broker operating within or outside Arkansas may participate in the sale of a prescription-only drug in this state only if the internet broker knows that the pharmacist who dispenses the drug has complied with the requirements of subsection (c) of this section.

(2) The board shall report to the Attorney General any violations of subdivision (d)(1) of this section.

History: Acts 2001, No. 1411, § 4; 2007, No. 128, § 2.

PHYSICIANS AND SURGEONS

SUB-CHAPTER 1 – GENERAL PROVISIONS

17-95-101. "Good Samaritan" law — Definition.

(a) Any healthcare professional under the laws of the State of Arkansas who in good faith lends emergency care or assistance without compensation at the place of an emergency or accident is not liable for any civil damages for acts or omissions performed in good faith so long as any act or omission resulting from the rendering of emergency assistance or services was not grossly negligent or willful misconduct.

(b) Any person who is not a healthcare professional who is present at an emergency or accident scene and who:

(1) Believes that the life, health, and safety of an injured person or a person who is under imminent threat of danger could be aided by reasonable and accessible emergency procedures under the circumstances existing at the scene thereof; and

(2) Proceeds to lend emergency assistance or service in a manner calculated in good faith to lessen or remove the immediate threat to the life, health, or safety of such a person, is not liable in civil damages in any action in this state for any act or omission resulting from the rendering of emergency assistance or services unless the act or omission was not in good faith and was the result of gross negligence or willful misconduct.

(c)

(1) A person who, without compensation, renders suicide prevention intervention at the scene of a threatened suicide, for and at the request of a nonprofit organization, is not liable for civil damages in any action in this state for any act or omission resulting from the rendering of suicide prevention intervention unless the act or omission was not in good faith and was the result of gross negligence or willful misconduct. Ark. Code Ann. § 17-95-101 (Lexis Advance through all legislation of the 2023 Regular Session, including corrections and edits by the Arkansas Code Revision Commission)

(2) A nonprofit organization that requests, sponsors, or participates in the providing of services under circumstances described in subdivision (c)(1) of this section is not liable for civil damages in any action in this state for any act or omission resulting from the rendering of suicide prevention intervention unless the act or omission was not in good faith and was the result of gross negligence or willful misconduct.

(d) A healthcare professional who in good faith and without compensation renders voluntary emergency assistance to a participant in a school athletic event or contest at the site thereof or during transportation to a healthcare facility for an injury suffered in the course of the event or contest is not liable for any civil damages as a result of any acts or omissions by that healthcare professional in rendering the emergency care. The immunity granted by this subsection shall not apply in the event of an act or omission constituting gross negligence.

(e) For the purposes of this section, "healthcare professional" means a licensed physician, chiropractic physician, dentist, optometric physician, podiatric physician, and any other licensed healthcare professional.

History: Acts 1963, No. 46, § 1; 1979, No. 55, § 1; 1979, No. 725, § 1; A.S.A. 1947, §§ 72-624, 72-624.1; Acts 1993, No. 1190, § 1; 2007, No. 683, § 1; 2007, No. 1038, § 1; 2023, No. 47, § 1.

17-95-102. Legend drugs — Definitions.

(a) As used in this section, "dispensing physician" means a physician licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., who purchases legend drugs to be dispensed to his or her patients for the patients' personal use and administration outside the physician's office.

(b) This section does not apply to physicians who only dispense drugs in injectable form unless they are controlled substances, in which case the section shall fully apply.

(c) The dispensing physician shall:

(1) Personally dispense legend drugs, and the dispensing of such drugs may be delegated;

(2)

(A) Keep records of all receipts and distributions of legend drugs.

(B) The records shall be subject to inspection by the proper enforcement authority and shall be readily accessible for inspection and maintained in a central registry; and

(3) Label legend drugs with the following information:

(A) Patient's name and address;

(B) Prescribing physician's address and narcotic registry number issued by the United States Drug Enforcement Administration or national provider identification number;

(C) Date of dispensing; and

(D) Directions and cautionary statements, if any, as required by law.

(d)

(1) A physician licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., shall not dispense legend drugs without prior approval by the Arkansas State Medical Board after application to the Arkansas State Medical Board and on the showing of need.

(2) Licensed physicians who were dispensing in the ordinary course of their practice before April 12, 2013, shall be exempt from the requirements of this subsection.

(3) The Arkansas State Medical Board shall determine whether need exists for a physician to dispense a specific legend drug to the physician's patient for a patient's personal use and administration outside of the physician's office based on such information as is necessary for the Arkansas State Medical Board to determine:

(A) The legend drug or drugs that the physician requests to dispense;

(B) The ability of a physician's patient to obtain the legend drug from other medical professionals;

(C) The availability of the legend drug to be prescribed by the physician;

(D) The hours at which the legend drug may be obtained from other medical professionals;
(E) The distance the physician's patient must travel to obtain the legend drug from other medical professionals;
(F) Whether the physician has been investigated by the Arkansas State Medical Board concerning the improper prescribing or use of a legend drug;
(G) Whether the physician has a financial relationship with the manufacturer of a legend drug that would create the appearance of a conflict of interest;
(H) Whether the physician dispensing a legend drug will foster cost containment through improved efficiency and productivity; and
(I) The procedures the physician has implemented to:
(i) Assure compliance with the requirements of subsection (c) of this section;
(ii) Monitor and guard against potential drug interactions;
(iii) Store and safeguard the legend drugs; and
(iv) Comply with the Prescription Drug Monitoring Program Act, § 20-7-601 et seq., concerning the reporting requirements to the Prescription Drug Monitoring Program.

(4) This section does not apply to a prescription for:
(i) A topical medication;
(ii) Naloxone;
(iii) Nicotine replacement therapy products;
(iv) Contraceptives;
(v) Acute care medication; or
(vi) Initial treatment for maintenance medication.

(e)
(1) The Arkansas State Medical Board shall enforce the provisions of this section and is authorized and directed to adopt rules to carry out the purpose of this section.
(2) The Arkansas State Medical Board shall adopt rules for physician dispensing that, at minimum, meet the same requirements for dispensing and oversight established by the Arkansas State Board of Pharmacy.

(f) As used in this section:
(1)
(A) "Acute care medication" means a legend drug that is not a controlled substance and is prescribed for no more than fourteen (14) days of therapy.
(B) "Acute care medication" includes the following oral medications:
(i) Medications to treat infections;
(ii) Anti-inflammatory medications;
(iii) Antinausea medications;
(iv) Antihistamines; and
(v) Cough medications;

(2) "Initial treatment" means the first prescription written for a specific prescription medication intended to initiate therapy on the medication; and
(3) "Maintenance medication" means a legend drug that:
(A) Is not a controlled substance;
(B) Is prescribed for no more than thirty (30) days; and
(C) Is used to treat one (1) of the following medical conditions:
(i) Hypertension;
(ii) Diabetes mellitus; or
(iii) Hypercholesterolemia.

History: Acts 1983, No. 515, §§ 1-4; A.S.A. 1947, §§ 72-638 — 72-641; Acts 1987, No. 190, § 1; 2013, No. 1169, § 1; 2017, No. 284, § 5; 2019, No. 315, § 1611; 2019, No. 651, § 2; 2021, No. 503, § 5.

17-95-103. Notice of malpractice claims.

(a) Every physician licensed to practice medicine and surgery in the State of Arkansas, within ten (10) days after the receipt or notification of a claim or filing of a lawsuit against him or her charging him or her with medical malpractice, shall notify the Arkansas State Medical Board of the claim or lawsuit. The notice shall be sent by registered letter to the office of the board and upon such forms as may be approved by the board. If the malpractice claim is in the form of a complaint in a filed lawsuit, a copy of the complaint shall be furnished to the board along with the notification required by this section.

(b) The reports required to be filed by physicians under this section shall be privileged and shall not be open for public inspection except upon order of a court of competent jurisdiction.
(c) The board is authorized and directed to prepare and adopt such rules as are necessary and proper to assure compliance with the provisions of this section.
History: Acts 1975, No. 306, §§ 1-3; A.S.A. 1947, §§ 72-625 — 72-627; Acts 2019, No. 315, § 1612.

17-95-104. Hospital's duty to report physician misconduct.

(a)
(1) A hospital licensed by or under the jurisdiction of the State of Arkansas, within sixty (60) days after taking such action as described in this section, shall report in writing to the Arkansas State Medical Board the name of any member of the medical staff or any other physician practicing in the hospital whose hospital privileges have been revoked, limited, or terminated for any cause, including resignation, together with pertinent information relating to the action.
(2) The hospital shall also report any other formal disciplinary action concerning any such physician taken by the hospital upon recommendation of the medical staff relating to professional ethics, medical incompetence, or drug or alcohol abuse.

(b) The filing of a report with the board pursuant to this section, investigation by the board, or any disposition by the board shall not, in and of itself, preclude any action by a hospital or other healthcare facility or professional society comprised primarily of physicians to suspend, restrict, or revoke the privileges or membership of such a physician.
(c) No hospital or employee of a hospital reporting to the board as provided by this section shall be liable in damages to any person for slander, libel, defamation of character, or otherwise because of the report.
(d) Any reports, information, or records received and maintained by the board pursuant to this section, including any such material received or developed by the board during an investigation or hearing, shall be strictly confidential. The board may only disclose any such confidential information:
(1) In a disciplinary hearing before the board or in any subsequent trial or appeal of a board action or order;
(2) To physician licensing or disciplinary authorities of other jurisdictions or to hospital committees located within or outside this state which are concerned with granting, limiting, or denying a physician's hospital privileges. The board shall include along with any such disclosure an indication as to whether or not the information has been substantiated; or
(3) Pursuant to an order of a court of competent jurisdiction.

History: Acts 1977, No. 451, §§ 1-4; A.S.A. 1947, §§ 72-634 — 72-637; Acts 2019, No. 990, § 96.

17-95-105. [Repealed.]

17-95-106. Volunteer services by retired physicians and surgeons — Immunity from liability.

(a) Retired physicians and surgeons who are still licensed to practice medicine by the Arkansas State Medical Board under the laws of the State of Arkansas, and who render medical services voluntarily and without compensation to any person at any free or low-cost medical clinic located in the State of Arkansas and registered by the State Board of Health, which accepts no insurance payments and provides medical services free of charge to persons unable to pay or provides medical services for a nominal fee, shall not be liable for any civil damages for any act or omission resulting from the rendering of such medical services, unless the act or omission was the result of the licensee's gross negligence or willful misconduct.
(b) The State Board of Health is empowered to adopt such rules as it may determine necessary to provide for the registration of free or low-cost medical clinics under this section. Provided, the rules shall require that each person, patient, or client to whom medical services are provided has been fully informed before any treatment by the physician providing the services or by the staff of the medical clinic of the immunity from civil suit provisions of this section, and has acknowledged that fact in writing on a form approved or designated by the Department of Health.
(c) The State Board of Health and its members, and the department and its agents and employees, are exempt and immune from liability for any claims or damages when performing their duties pursuant to this section.
(d) The provisions of this section shall not affect the Arkansas Volunteer Immunity Act, § 16-6-101 et seq.
History: Acts 1995, No. 844, §§ 1-4; 2019, No. 315, § 1613.

17-95-107. Credentialing organization — Definitions.

(a) The purpose of this section is to allow the Arkansas State Medical Board to provide information to credentialing organizations.
(b) As used in this section:

(1) “Accrediting organization” means an organization that awards accreditation or certification to hospitals, managed care organizations, or other healthcare organizations, including, but not limited to, The Joint Commission and the National Committee for Quality Assurance;

(2) “Credentialing information” means:

(A) Information regarding a physician's:

(i) Professional training, qualifications, background, practice history, and experience, for example, status of medical license;

(ii) Clinical hospital privileges;

(iii) Status of United States Drug Enforcement Administration certificate;

(iv) Education, training, and board certification;

(v) Work history;

(vi) Current malpractice coverage;

(vii) History of professional liability or malpractice claims;

(viii) Drug or alcohol abuse to the extent permitted by law;

(ix) History of board appearances;

(x) Loss, surrender, restriction, or suspension of license;

(xi) Felony convictions;

(xii) History of loss or limitation of privileges or disciplinary activity;

(xiii) Attestation of the correctness and completeness of the application; and

(xiv) History of Medicare or Medicaid or other sanctions; and

(B) Other objective information typically required by accrediting organizations for the purpose of credentialing physicians;

(3) “Credentialing organization” means a hospital, clinic, or other healthcare organization, managed care organization, insurer, or health maintenance organization;

(4) “Primary source verification procedure” means the procedure used by a credentialing organization to test the accuracy of documents and credentialing information submitted to it by or about a physician who is applying for affiliation or participation with the credentialing organization. This procedure involves the verification of credentials with the originating source of the credentials; and

(5) “Telemedicine physician” means a physician who is physically located at a distant site as defined by the Telemedicine Act, § 17-80-401 et seq., but who uses an electronic medium to perform an act that is part of a patient care service initiated in this state.

(c)

(1) All physicians licensed by the board shall submit such credentialing information as the board may request so that the board may verify the information by the primary source verification procedure in order to make the information available to credentialing organizations. If the physician should fail to submit the information as the board requests within a period of thirty (30) days, the failure can result in the suspension of the physician's license to practice medicine in the State of Arkansas after the matter is presented to the full board for a hearing pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) Any credentialing organization shall submit such credentialing information as it has in its possession to the board in order to complete the primary source verification procedure, upon the board's request and upon the board's providing proof that the physician has authorized the release of the information. The failure of the organization to release the information to the board shall be grounds to have the license to do business in the State of Arkansas suspended upon the board's presenting the proof to the licensing agency of that organization.

(3) Credentialing organizations may utilize credentialing information provided by the board and verified by the primary source verification procedure of the board to evaluate the following:

(A) Granting or denying the application of a physician for affiliation or participation within the organization or its networks;

(B) The quality of services provided by a physician or the physician's competency or qualifications;

(C) Renewal of the affiliation or participation of the physician; and

(D) The type, extent, or conditions of the physician's privileges or participation in the network.

(d)

(1)

(A) The board shall provide to any credentialing organization any credentialing information the board collects concerning any person licensed by the board if the person authorizes release of the information.

(B) The board shall provide the information within fifteen (15) business days after receipt of the request.

(C) If any person fails or refuses for any reason to authorize release of credentialing information, the requesting credentialing organization shall be entitled on grounds of the refusal to exclude the person from any privileges, contract, or network of the credentialing organization.

(2)

(A) The board shall promulgate rules establishing a credentialing information system, and the rules shall indicate the procedures for collection and release of credentialing information under this section.

(B) The rules shall require that before July 1, 2003, the process of recredentialing a physician shall be completed within thirty (30) business days unless circumstances beyond the control of the board make completion of the process within thirty (30) business days impossible or unduly burdensome.

(C) If the credentialing process is not completed within the required time and the board does not provide an adequate explanation for failing to meet the time requirement, the fee for the credentialing process shall be refunded to the credentialing organization, hospital, or other qualified recipient of the fee.

(D) If disagreements arise over a claim that circumstances have made timely completion impossible or unduly burdensome, the disagreement shall be presented to the advisory committee established under subdivision (d)(3) of this section for a recommendation to the board on whether or not to refund the fee and in what amount so that the board may issue an order to refund the fee or deny the request after consideration by the board.

(3) The board shall appoint a ten-member advisory committee to assist with the adoption of policies and rules concerning the credentialing information system. At least six (6) of the ten (10) members of the advisory committee shall be representatives of credentialing organizations subject to this section, including not fewer than two (2) hospital representatives and not fewer than two (2) insurer or health maintenance organization representatives.

(4) Credentialing information shall not be disclosed to any parties other than the applicable healthcare provider and the credentialing organization and its designated credentialing and appeals, peer review, and quality improvement committees or bodies. Except as permitted in this section, credentialing information shall not be used for any purpose other than review by the board and credentialing organizations of the professional background, competency, qualifications, and credentials or renewal of credentials of a healthcare provider or appeals therefrom, and all such credentialing information shall be exempt from disclosure under the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq. Credentialing information may be disclosed in the following circumstances:

(A) By the board in disciplinary hearings before the board or in any trial or appeal of the board action or order;

(B) By the board or credentialing organization to any licensing, regulatory, or disciplinary authorities or agencies of the United States or of other states or jurisdictions;

(C) In any legal or regulatory proceeding that:

(i) Is brought by a:

(a) Healthcare provider;

(b) Representative of the healthcare provider or a class thereof;

(c) Local, state, or federal agency or authority; or

(d) Patient or group or class of patients or their authorized representatives or agents; and

(ii) Challenges the actions, omissions, or conduct of the credentialing organization with respect to credentialing of any healthcare provider or the grant or denial of any affiliation or participation of the healthcare provider with or in the credentialing organization or any network thereof; or

(D) By any party when authorized to do so by the healthcare provider to whom the credentialing information relates.

(5) The evaluation and discussion of credentialing information by a credentialing organization shall not be subject to discovery or admissible pursuant to the Arkansas Rules of Civil Procedure or the Freedom of Information Act of 1967, § 25-19-101 et seq.

(6) The board may enter into contractual agreements with users of the credentialing information system to define the type and form of information to be provided and to give users assurances of the integrity of the information collected.

(7)

(A) The board may charge credentialing organizations a reasonable fee for the use of the credentialing service as established by rule.

(B) The fee shall be set in consultation with the advisory committee and shall be set at such a rate as will reimburse the board, when added to the credentialing assessments collected from physicians, for the cost of maintaining the credentialing information system.

(C) A credentialing organization shall not charge or seek payment of the fee from a physician licensee.

(D) The board's costs may not exceed the fees charged by private vendors with a comparable statewide credentialing service.

(E)

(i) The board may assess each physician licensee an amount not to exceed one hundred dollars($100) per year to offset the cost of providing the credentialing service.

(ii) The board shall not increase or set assessed fees exceeding the amounts in this section.

(iii) If the board determines in its discretion that a reduction is in the best interest of the state, the board may reduce fees below the amounts in this chapter through the administrative rule process and by the approval of the Governor and either the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(e)

(1)

(A) In lieu of testing credentialing information by its own primary source verification procedure, a credentialing organization may rely upon credentialing information from the board if the board certifies that the information provided by the board has been tested by the board's primary source verification procedure.

(B) The credentialing organization shall be immune from civil suit based on any allegation of wrongdoing or negligence involved in the collection and verification of or reliance upon credentialing information on a healthcare provider if the credentialing organization has utilized the information provided by the board in credentialing a healthcare provider for affiliation or participation with the credentialing organization. However, this does not convey immunity from civil suit to a credentialing organization for any credentialing decision it makes.

(2) Except as provided in subsections (f) and (h) of this section, a credentialing organization shall be precluded hereby from seeking credentialing information from the physician or from sources other than the board if:

(A) The same credentialing information is available from the board;

(B) At the time the credentialing information is requested, the board:

(i) Holds certification by the National Committee for Quality Assurance as a certified credentials verification organization;

(ii) Demonstrates compliance with the principles for credentials verification organizations set forth by The Joint Commission;

(iii) Documents compliance with Department of Health rules applicable to credentialing; and

(iv) Maintains evidence of compliance with the standards referenced in subdivisions (e)(2)(B)(i)-(iii) of this section; and

(C)

(i) The board charges fees that comply with subdivision (d)(7) of this section.

(ii) Until the board satisfies each of the foregoing prerequisites, credentialing organizations, in their discretion, may utilize credentialing information obtained from the board, or they may seek other sources for the same credentialing information.

(iii) If at any time the board fails to satisfy any of the certification or compliance standards referenced in this subsection, a credentialing organization is not required to utilize the board to obtain credentialing information during any period in which the board lacks such accreditation or compliance.

(f)

(1) Credentialing organizations that utilize the credentialing information system offered by the board shall not attempt to collect duplicate information from individual physicians or originating sources, but nothing in this section shall prevent any credentialing organization from collecting or inquiring about any data not available from or through the board, nor from reporting to or inquiring of the National Practitioner Data Bank.

(2) The board may seek an injunction against any credentialing organization violating or attempting to violate this section and, upon prevailing, shall be entitled to recover attorney's fees and court costs involved in obtaining the injunction.

(g) The board will have the authority to hire such employees and enter into contracts with attorneys, individuals, or corporations for services as may be necessary to bring about the purpose of this section.

(h)

(1) If the medical staff bylaws of a credentialing organization require the use of a primary source verification procedure for a telemedicine physician, the credentialing organization may obtain a primary source verification by:

(A) Seeking credentialing information from the board using the process established under this section; or

(B) Using a streamlined process for credentialing and privileging telemedicine practitioners established by the Centers for Medicare & Medicaid Services under 42 C.F.R. § 482.22, as existing on January 1, 2019, if the telemedicine physician has been credentialed by another Arkansas hospital within the past three (3) years.

(2) This section does not require a credentialing organization to use a primary source verification procedure for credentialing a telemedicine physician unless the use of a primary source verification procedure is mandated by the organization's medical staff bylaws.

(3) Solely for purposes of determining the fee to be paid under subdivision (d)(7) of this section, the board shall not classify a physician as a telemedicine physician, regardless of whether the physician is providing telemedicine services for organizations in this state or outside of this state, if:

(A) The physician's practice location is in Arkansas; or

(B) The physician is providing services on-site at the credentialing organization that is seeking credentialing information about the physician.

History: Acts 1999, No. 1410, § 2; 2003, No. 1360, §§ 1-3; 2005, No. 1962, § 76; 2011, No. 999, § 1; 2013, No. 1035, § 2; 2019, No. 315, §§ 1614-1617; 2019, No. 386, § 48; 2019, No. 921, §§ 1-3; 2023, No. 79, § 3.

GASTRIC BYPASS SURGERY

17-95-108. Informed consent required for gastric bypass surgery.

(a) No gastric bypass surgery may be performed in this state unless the physician who will perform the surgery has informed the patient in writing, as evidenced by the patient's signature, of the known risks and complications of the procedure, including, but not limited to:

(1) The surgery itself;

(2) All known and documented future complications that may occur as a result of the procedure;

(3) Side effects that may result from vitamin deficiency and malnutrition; and

(4) The requirements for appropriate follow up.

(b)

(1) The Arkansas State Medical Board shall promulgate rules to enforce this section within six (6) months of July 16, 2003.

(2) The rules shall utilize scientifically accepted information from national medical specialty boards, organizations, or governmental agencies in determining the specific content and lists of complications or side effects, or both, that must be included in the informed consent.

History: Acts 2003, No. 1356, § 1; 2019, No. 315, § 1618.

SUB-CHAPTER 2 – GENERAL PROVISIONS

17-95-201. Short title.

Sections 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., shall be known as the "Arkansas Medical Practices Act".

History: Acts 1957, No. 198, § 1; A.S.A. 1947, § 72-601.

17-95-202. Definitions.

As used in the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.:

(1) "Active" means actively engaged in the full-time practice of medicine;

(2) "Office-based surgery" means surgery that:

(A) Is performed by a physician in a medical office that is not a hospital, outpatient clinic, or other facility licensed by the State Board of Health;

(B) Requires the use of general or intravenous anesthetics; and

(C) In the opinion of the physician, does not require hospitalization; and

(3) "Practice of medicine" means:

(A) Holding out oneself to the public within this state as being able to diagnose, treat, prescribe for, palliate, or prevent any human disease, ailment, injury, deformity, or physical or mental condition, whether by the use of drugs, surgery, manipulation, electricity, or any physical, mechanical, or other means whatsoever;

(B) Suggesting, recommending, prescribing, or administering any form of treatment, operation, or healing for the intended palliation, relief, or cure of any physical or mental disease, ailment, injury, condition, or defect of any person with the intention of receiving, either directly or indirectly, any fee, gift, or compensation whatsoever;

(C) Maintaining an office or other place to meet persons for the purpose of examining or treating persons afflicted with disease, injury, or defect of body or mind;

(D) Using the title "M.D.", "M.B.", "D.O.", "physician", "surgeon", or any other word or abbreviation to indicate or induce others to believe that one is engaged in the diagnosis or treatment of persons afflicted with disease, injury, or defect of body or mind, except as otherwise expressly permitted by the laws of this state relating to the practice of any limited field of the healing arts;

(E) Performing any kind of surgical operation upon a human being; or

(F) Delegating certain medical practices to other personnel under rules adopted by the board.

History: Acts 1957, No. 198, §§ 2, 4; 1971, No. 53, § 1; A.S.A. 1947, §§ 72-603, 72-604; Acts 2001, No. 464, § 1; 2005, No. 2010, § 1; 2007, No. 827, § 137; 2009, No. 472, § 1; 2013, No. 587, § 1; 2019, No. 386, § 49.

17-95-203. Exemptions.

Nothing herein shall be construed to prohibit or to require a license with respect to any of the following acts:

(1) The gratuitous rendering of services in case of emergency;

(2) The rendering of services in this state by a physician lawfully practicing medicine in another state or territory, provided that the physician must possess a license to practice medicine in this state if he or she:

(A) Does not limit such services to an occasional case;

(B) Has any established or regularly used hospital connections in this state; or

(C) Maintains or is provided with for his or her regular use any office or other place for the rendering of those services;

(3) The practice of the following professions, as defined by the laws of this state, which the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., is not intended to limit, restrict, enlarge, or alter the privileges and practice of, as provided by the laws of this state:

(A) Dentistry;

(B) Podiatry;

(C) Optometry;

(D) Chiropractic; or

(E) Cosmetology;

(4) The practice of Christian Science, with or without compensation;

(5) The performance by commissioned medical officers of the United States Armed Forces or of the United States Public Health Service or of the United States Department of Veterans Affairs of their lawful duties in this state as officers;

(6) The rendering of nursing services by registered or other nurses in the lawful discharge of their duties as such;

(7) The rendering of services by students, interns, residents, or fellows in a transitional year, residency, or fellowship training program approved by the American Medical Association, Accreditation Council for Graduate Medical Education, American Osteopathic Association, the State Board of Health, or the United States Government;

(8) As defined and limited by the laws of this state, the performance of the duties of a:

(A) Physical therapist; or

(B) Massage therapist;

(9) The domestic administration of family remedies;

(10) The practice of lay midwifery as defined in the Licensed Lay Midwife Act, § 17-85-101 et seq.;

(11)

(A) The practice of medicine within the scope of a physician's duties as an employee of the United States Bureau of Prisons, if the physician has obtained a license to practice from Arkansas or any other state, territory, the District of Columbia, or Canada.

(B) A physician authorized to practice under subdivision (11)(A) of this section may provide medical treatment or services only to inmates and shall not provide medical treatment or services to other employees of the United States Bureau of Prisons or any other person; or

(12) The practice of medicine through a program in partnership with federal Innovative Readiness Training if the physician has obtained a license to practice from another state, commonwealth, territory, or the District of Columbia.

History: Acts 1957, No. 198, § 4; 1971, No. 53, § 1; 1977, No. 459, § 18; 1983, No. 838, § 3; A.S.A. 1947, § 72-604; Acts 2001, No. 579, § 1; 2001, No. 929, § 5; 2015, No. 948, § 1; 2017, No. 205, § 7.

17-95-204. Perjury.

Any person who shall willfully and knowingly make any false statement to the Arkansas State Medical Board concerning his or her qualifications or authority to practice medicine shall be deemed guilty of perjury and punished as provided by law for those guilty of perjury. Such a person may be indicted and tried for such an offense, either in the county where the affidavit to the statement was made or where the person resides.

History: Acts 1957, No. 198, § 7; A.S.A. 1947, § 72-607.

17-95-205. [Repealed.]

17-95-206. Out-of-state physicians.

(a) A physician who is physically located outside this state but who through the use of any medium, including an electronic medium, performs an act that is part of a patient care service initiated in this state, including the performance or interpretation of an X-ray examination or the preparation or interpretation of pathological material that would affect the diagnosis or treatment of the patient, is engaged in the practice of medicine in this state for the purposes of this chapter and is subject to this chapter and to appropriate rules promulgated by the Arkansas State Medical Board.

(b) This section does not apply to:

(1) The acts of a medical specialist located in another jurisdiction who provides only episodic consultation services;

(2) The acts of a physician located in another jurisdiction who is providing consultation services to a medical school;

(3) Decisions regarding the approval of coverage under any insurance or health maintenance organization plan;

(4) A service to be performed which is not available in the state;

(5) A physician physically seeing a patient in person in another jurisdiction; or

(6) Other acts exempted by the board by rule.

History: Acts 1997, No. 1353, § 1; 2019, No. 315, § 1619; 2019, No. 688, § 1.

17-95-207. Temporary license for out-of-state physicians.

Any physician who seeks licensure in this state pursuant to the requirements of § 17-95-206, upon submission of the proper credentialing documents to the Arkansas State Medical Board, shall be issued a temporary license to practice medicine in this state until such time as final action is taken by the board on the physician's application.

History: Acts 1997, No. 1353, § 2.

17-95-208. Rules on physician's authority to delegate.

(a) The Arkansas State Medical Board shall adopt rules that establish standards to be met and procedures to be followed by a physician with respect to the physician's delegation of the performance of medical practices to a qualified and properly trained employee who is not licensed or otherwise specifically authorized by the Arkansas Code to perform the practice.

(b) The rules adopted under subsection (a) of this section shall provide that:

(1) The delegating physician remains responsible for the acts of the employee performing the delegated practice;

(2) The employee performing the delegated practice shall not be represented to the public as a licensed physician, licensed nurse, licensed physician's assistant, or other licensed healthcare provider; and

(3) Medical practices delegated under this section shall be performed under the physician's supervision.

(c) Delegation of medical practices under this section may include administration of drugs that do not require substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical, and social sciences as determined by the board.

(d) Rules adopted regarding the delegation of the administration of drugs shall provide for:

(1) The delegated administration of drugs only within the physical boundaries of the delegating physician's offices;

(2) Evaluation of whether delegation is appropriate according to the acuity of the patient involved;

(3) Training and competency requirements that shall be met by the person administering the drugs; and

(4) Other standards and procedures the board considers relevant.

(e) The board shall not adopt rules that:

(1) Authorize a physician to transfer to a health professional other than another physician the physician's responsibility for supervising a delegated medical practice;

(2) Authorize an individual to whom a medical practice is delegated to delegate the performance of that practice to another individual;

(3) Authorize a physician to delegate the administration of anesthesia; or

(4) Conflict with a provision of the Arkansas Code that specifically authorizes an individual to perform a particular practice.

History: Acts 2009, No. 472, § 2.

17-95-209. Regulation of office-based surgery.

Within eighteen (18) months after August 16, 2013, the Arkansas State Medical Board shall adopt rules to be followed by a physician who performs office-based surgery.

History: Acts 2013, No. 587, § 2.

17-95-210. Use of credentialing information — Definitions.

(a) The purpose of this section is to allow the Arkansas State Medical Board to provide information to credentialing organizations.

(b) For purposes of this section:

(1) "Credentialing information" means:

(A) Information regarding a physician assistant's, a radiology assistant's, a radiology practitioner assistant's, an occupational therapist's, an occupational therapy assistant's, or a respiratory care practitioner's:

(i) Attestation of the correctness and completeness of an application under this section;

(ii) Clinical hospital privileges;

(iii) Current malpractice coverage;

(iv) Drug or alcohol abuse to the extent permitted by law;

(v) Education, training, and board certification;

(vi) Felony convictions;

(vii) History of appearances before the board;

(viii) History of loss or limitation of privileges or disciplinary activity;

(ix) History of Medicare or Medicaid sanctions or other sanctions;

(x) History of professional liability or malpractice claims;

(xi) Loss, surrender, restriction, or suspension of license;

(xii) Professional training, qualifications, background, practice history, experience, and status of medical license;

(xiii) Status of United States Drug Enforcement Administration certificate; and

(xiv) Work history; and

(B) Other objective information typically required by accrediting organizations for the purpose of credentialing healthcare professionals, radiology assistants, radiology practitioner assistants, occupational therapists, occupational therapy assistants, or respiratory care practitioners; and

(2) "Credentialing organization" means:

(A) A clinic;

(B) A hospital;

(C) A health maintenance organization;

(D) An insurer;
(E) A managed care organization; and
(F) Another healthcare organization.

(c) A credentialing organization may utilize credentialing information provided by the board to evaluate:

(1) Granting or denying the application of a physician assistant, a radiology assistant, a radiology practitioner assistant, an occupational therapist, an occupational therapy assistant, or a respiratory care practitioner for affiliation or participation within the organization or its networks;

(2) The quality of services provided by a physician assistant, a radiology assistant, a radiology practitioner assistant, an occupational therapist, an occupational therapy assistant, or a respiratory care practitioner or the physician assistant's, the radiology assistant's, the radiology practitioner assistant's, the occupational therapist's, the occupational therapy assistant's, or the respiratory care practitioner's competency or qualifications;

(3) Renewal of the affiliation or participation of a physician assistant, a radiology assistant, a radiology practitioner assistant, an occupational therapist, an occupational therapy assistant, or a respiratory care practitioner; and

(4) The type, extent, or conditions of the physician assistant's, the radiology assistant's, the radiology practitioner assistant's, the occupational therapist's, the occupational therapy assistant's, or the respiratory care practitioner's privileges or participation in the network.

(d)

(1) The board shall provide to a credentialing organization any credentialing information the board collects concerning a person licensed by the board, if the person authorizes release of the information.

(2) If a person fails or refuses to authorize release of credentialing information under this section, the requesting credentialing organization is entitled, on grounds of the failure or refusal, to exclude the person from a privilege, contract, or network of the credentialing organization.

(e) This section applies to the following individuals and health practitioners that are licensed by the Arkansas State Medical Board:

(1) Occupational therapists and occupational therapy assistants, licensed under the Arkansas Occupational Therapy Practice Act, § 17-88-101 et seq.;

(2) Physician assistants, licensed under § 17-105-101 et seq.;

(3) Radiology assistants and radiology practitioner assistants licensed under § 17-106-201 et seq.; and

(4) Respiratory care practitioners licensed under the Arkansas Respiratory Care Act, § 17-99-101 et seq.

(f)

(1) The board shall adopt rules establishing and describing the procedures for collection and release of information under this section.

(2) The board shall adopt policies and rules after seeking the advice from the following committees:

(A) The Arkansas State Occupational Therapy Examining Committee established under § 17-88-201 et seq.;

(B) The Arkansas State Respiratory Care Examining Committee established under § 17-99-203 et seq.; and

(C) The physician assistant advisory committee established under § 17-105-117.

(g)

(1) The board may charge a credentialing organization a reasonable fee for the use of the credentialing service established under this section.

(2) The fee shall be set after receiving advice from the physician assistant advisory committee and shall be set at a rate to reimburse the board for the cost of administering this section.

(h) The board shall adopt rules establishing a credentialing information system, and the rules shall indicate the procedures for collection and release of credentialing information under this section.

(i)

(1) The board shall not disclose credentialing information to a party other than the applicable healthcare provider and the credentialing organization and its designated credentialing and appeals, peer review, and quality improvement committee or body.

(2) Except as permitted in this section, credentialing information shall not be used for a purpose other than review by the board and a credentialing organization of the professional background, competency, qualifications, and credentials or renewal of credentials of a healthcare provider or appeals of a review by the board or a credentialing agency.

(3) Credentialing information is exempt from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(4) Credentialing information may be disclosed:

(A) By the board in a disciplinary hearing before the board or in a trial or appeal of a board action or order;

(B) By the board or a credentialing organization to a licensing, regulatory, or disciplinary authority or agencies of the United States, another state, or jurisdiction;

(C) In a legal or regulatory proceeding that:

(i) Is brought by a healthcare provider, a representative of the healthcare provider or a class healthcare provider, a local, state, or federal agency or authority, or a patient or group or class of patients or an authorized representative or agent of a patient or group or class of patients; and

(ii) Challenges the actions, omissions, or conduct of the credentialing organization with respect to credentialing of a healthcare provider or the grant or denial of an affiliation or participation of the healthcare provider with or in the credentialing organization or a network of the credentialing organization; or

(D) By a party when the party is authorized to disclose credentialing information by the healthcare provider to whom the credentialing information relates.

(5) The evaluation and discussion of credentialing information by a credentialing organization is not subject to discovery and is not admissible under the Arkansas Rules of Civil Procedure or the Freedom of Information Act of 1967, § 25-19-101 et seq.

(6) The board may enter into a contractual agreement with a user of the credentialing information system to define the type and form of information to be provided and to give a user assurances of the integrity of the information collected.

(7) The board may hire employees, enter into contracts with attorneys, individuals, or corporations for services necessary to implement this section.

History: Acts 2013, No. 1035, § 1.

SUB-CHAPTER 3 – ARKANSAS STATE MEDICAL BOARD

17-95-301. Creation — Members.

(a) There is created the Arkansas State Medical Board.

(b)

(1)

(A) The board shall consist of fifteen (15) members appointed by the Governor for terms of six (6) years.

(B) The Governor shall consider diversity of practice specialties and geographical areas of practice in making appointments to the board.

(2)

(A)

(i) Ten (10) members shall be qualified, licensed, and active medical practitioners appointed by the Governor after the Governor has consulted the Arkansas Medical Society, Inc., and shall be subject to confirmation by the Senate.

(ii) At least two (2) members shall be appointed from each of the state's four (4) congressional districts.

(iii) Two (2) members shall be appointed at large.

(B) Congressional district representation required under this subdivision (b)(2) shall be achieved by appointment as vacancies occur.

(3) One (1) member shall be a licensed practicing physician in this state and shall be appointed by the Governor after the Governor has consulted the Physicians' Section of the Arkansas Medical, Dental, and Pharmaceutical Association, Inc., and shall be subject to confirmation by the Senate.

(4)

(A) Two (2) members of the board shall not be actively engaged in or retired from the practice of medicine.

(B) One (1) member shall represent consumers, and one (1) member shall be sixty (60) years of age or older and shall represent the elderly.

(C) Both shall be appointed from the state at large subject to confirmation by the Senate.

(D) The two (2) positions may not be held by the same person.

(E) Both shall be full voting members but shall not participate in the grading of examinations.

(5) One (1) member shall be a qualified, licensed, and practicing osteopathic physician appointed after consulting the Arkansas Osteopathic Medical Association and shall be subject to confirmation by the Senate.

(6) One (1) member shall be a qualified, licensed, and practicing physician assistant appointed by the Governor after the Governor has consulted with the Arkansas Academy of Physician Assistants, Inc., and shall be subject to confirmation by the Senate.

(c)

(1) The term of each member shall expire on December 31 of the year designated, and a successor appointee shall be named by the Governor on or before the expiration date of the term so expiring.

(2) A member may not serve on the board for more than two (2) full terms or more than thirteen (13) years.

(d)

(1) Vacancies on the board occurring otherwise than as provided in this section shall be filled by appointment by the Governor within thirty (30) days thereafter.

(2) In the event a vacancy exists in the member position of licensed practicing physician appointed upon the advice and recommendation of the Arkansas Medical Society, Inc., due to death, resignation, or other cause, a successor member to the position shall be appointed by the Governor for the remainder of the unexpired portion of the term thereof in the same manner as provided in this section for the initial appointment.

(3) In the event a vacancy exists in the member position of licensed practicing physician appointed upon the advice and recommendation of the Physicians' Section of the Arkansas Medical, Dental, and Pharmaceutical Association, Inc., due to death, resignation, or other cause, a successor member to the position shall be appointed by the Governor for the remainder of the unexpired portion of the term thereof in the same manner as provided in this section for the initial appointment.

(4) In the event a vacancy exists in the member position of the licensed osteopathic physician appointed upon the advice and recommendation of the Arkansas Osteopathic Medical Association due to death, resignation, or other cause, a successor member to the position shall be appointed by the Governor for the remainder of the unexpired portion of the term thereof in the same manner as provided in this subchapter for the initial appointment.

(5) In the event that a vacancy exists in the position of the licensed physician assistant appointed under subsection (b) of this section due to death, resignation, or other causes, a successor to the position shall be appointed by the Governor for the remainder of the term of the licensed physician assistant in the same manner as provided in this subchapter for the initial appointment.

(e) The members of the board shall take the oath prescribed by the Arkansas Constitution for state officers before entering upon the discharge of their duties.

(f)

(1) The members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

(2) The Director of the Arkansas State Medical Board and the Deputy Director of the Arkansas State Medical Board shall receive such additional salary as may be fixed by the Department of Health.

(g) Physicians appointed to the board shall:

(1) Remain in active practice for the full term of the appointment; or

(2) Resign if, with more than one (1) year remaining on the appointed term, the physician:

(A) Is no longer actively practicing as a physician; or

(B) Moves his or her business or residence out of the district from which he or she was appointed.

(h)

(1) Members of the board may be removed from the office by the Governor:

(A) For good cause pursuant to § 25-16-804;

(B) For cause including dishonorable or unprofessional conduct, abuse of authority, malfeasance, misfeasance, or nonfeasance; or

(C)

(i) For any reason that would justify probation, suspension, or revocation of a physician's license to practice medicine under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., or for any reason that would justify probation, suspension, or

revocation of a physician assistant's license to practice under § 17-105-101 et seq., which shall be referred directly to the Division of Pharmacy Services and Drug Control of the Department of Health by the Governor for investigation as provided in § 17-80-106.

(ii) The Division of Pharmacy Services and Drug Control of the Department of Health shall prepare a report for the Secretary of the Department of Health based on its findings.

(2) No member of the board may be involved in the conduct of the investigation except to cooperate with the investigation as required by the investigator.

(i) A physician assistant appointed to the board shall:

(1) Remain in active practice for the full term of the appointment; or

(2) Resign if, with more than one (1) year remaining of the appointed term, the physician assistant is no longer actively practicing as a physician assistant.

History: Acts 1955, No. 65, § 2; 1957, No. 198, § 18; 1977, No. 113, §§ 1-3; 1981, No. 717, § 2; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; 1983, No. 365, § 5; 1985, No. 850, § 1; A.S.A. 1947, §§ 6-617 — 6-619, 6-623 — 6-626, 72-602, 72-602.1, 72-618; Acts 1991, No. 255, §§ 1, 2; 1992 (1st Ex. Sess.), No. 38, § 1; 1997, No. 250, § 166; 2001, No. 464, §§ 2, 3; 2005, No. 2010, §§ 2-4; 2009, No. 1273, § 1; 2015, No. 1100, § 37; 2017, No. 69, § 1; 2019, No. 386, § 50; 2019, No. 910, §§ 4894, 4895; 2021, No. 634, §§ 1-4.

17-95-302. Organization and proceedings.

(a) Within thirty (30) days after their appointment, the members of the Arkansas State Medical Board shall meet and organize by electing a chair, vice chair, and treasurer. The Treasurer of the Arkansas State Medical Board shall give bond in such amount as may be designated by the board, which may be increased or decreased from time to time, conditioned for the faithful disbursement and accounting of all moneys coming into his or her hands as the treasurer.

(b) The board shall hold its regular meetings at such time as the board shall establish by rule and shall have the power to call and hold special meetings at such times and places as it deems necessary.

(c) The Chair of the Arkansas State Medical Board, the Vice Chair of the Arkansas State Medical Board, and the Secretary of the Arkansas State Medical Board shall have power to administer oaths for the purpose of performing their powers and duties.

(d) The board shall have a seal bearing the name “Arkansas State Medical Board”.

History: Acts 1955, No. 65, § 2; 1979, No. 150, § 1; A.S.A. 1947, § 72-602; Acts 2019, No. 315, § 1620.

17-95-303. Powers and duties.

The Arkansas State Medical Board shall:

(1) Make and adopt all rules and bylaws not inconsistent with the laws of this state or of the United States and necessary or convenient to perform the duties and to transact the business required by law;

(2) Have authority to promulgate and put into effect such rules as are necessary to carry out the purposes of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and the intentions expressed therein;

(3)

(A)

(i) Have authority to request the Department of Health to employ attorneys to represent the board in all legal matters for a compensation approved by the board.

(ii) Contracts for employment of attorneys shall be filed by the Secretary of the Department of Health with the Legislative Council.

(B) The board shall have authority to request the assistance of the Attorney General and the prosecuting attorneys of Arkansas in such manner as it deems necessary and proper;

(4) Have the authority to employ a director in consultation with the secretary to carry out the purposes and the mandates of the board;

(5) Examine, as is provided for by law, all applicants for a license to practice medicine in this state;

(6) Consider and give deference to data, studies, consensus documents, and conclusions issued by the Centers for Disease Control and Prevention or the National Institutes of Health whenever their data, studies, consensus documents, and conclusions are relevant to any decision made pursuant to the board's powers and duties under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.;

(7) Have the power and authority to collect practice data from licensees; and

(8) Promulgate rules limiting the amount of Schedule II narcotics that may be prescribed and dispensed by licensees of the board.

History: Acts 1955, No. 65, § 2; 1957, No. 198, § 18; 1977, No. 15, § 4; 1979, No. 150, § 1; 1983, No. 365, § 5; A.S.A. 1947, §§ 72-602, 72-618; Acts 1992 (1st Ex. Sess.), No. 38, § 2; 2001, No. 464, § 4; 2003, No. 1716, § 1; 2011, No. 1010, § 1; 2017, No. 69, § 2; 2017, No. 820, § 5; 2019, No. 315, § 1621; 2019, No. 910, § 4896.

17-95-304. Inspectors — Use of prescriptions, orders, or records.

(a)

(1) The Arkansas State Medical Board shall utilize the investigators and inspectors of the Division of Pharmacy Services and Drug Control of the Department of Health.

(2) The Department of Health is directed to make investigators and inspectors available for those purposes for as long as they may conduct investigations and inspections of prescriptions.

(b)

(1)

(A) The investigators may obtain copies of prescriptions, orders, and records as admissible evidence without the necessity of the issuance of an administrative inspection warrant or search warrant.

(B) However, investigators must have in their possession an authorization by the Director of the Division of Pharmacy Services and Drug Control of the Department of Health.

(2) The inspectors shall have the duty and authority upon written direction by the Director of the Arkansas State Medical Board to investigate, inspect, and make copies of the records, orders, and prescriptions, wherever located, of all persons licensed by the board in order to determine whether or not the persons have:

(A) Violated the laws of the State of Arkansas or of the United States respecting the prescription and use of narcotics and potentially dangerous drugs;

(B) Practiced their profession in such a way as to endanger the general health and welfare of the public; or

(C) Violated the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

(3) The licensee may refuse the request of the investigator and not tender copies of the records.

(c)

(1) The copies of prescriptions, orders, or records shall not become public records by reason of their use in disciplinary proceedings held by the board, nor shall the patient's or physician's property right to the prescriptions be extinguished by that use.

(2)

(A) If the prescriptions, orders, or records are to be used in criminal proceedings, they shall be obtained by the inspectors only on an administrative inspection warrant as authorized by § 5-64-502.

(B) However, no administrative inspection warrant is necessary when the prescriptions, orders, or records are to be used solely for board disciplinary purposes.

(d) The board shall have the power, in lieu of a letter of authority, to issue to the investigators a subpoena to obtain copies of the records referred to in this section, and the investigators will have the authority to serve the subpoena and to collect the records.

(e) If a witness served with a subpoena fails to honor the subpoena, then the board may apply to the circuit court for remedies as provided in the Arkansas Rules of Civil Procedure. The court shall have the power to punish the disobedient witness for contempt as is now provided by law in the trial of civil cases.

(f)

(1) The division shall have the authority to collect from the individual board utilizing the services delineated in this section up to fifty dollars ($50.00) per hour with a maximum of four thousand dollars ($4,000) in hourly costs per case.

(2) The division shall also have the authority to collect from the individual board utilizing the services delineated in this section for:

(A) Travel expenses at the level for state employees; and

(B) Other out-of-pocket costs incurred by the division in carrying out its investigative task.

(g) The board may collect costs incurred under subsection (f) of this section from the licensees being investigated by the division.

History: Acts 1955, No. 65, § 2; 1979, No. 150, § 1; A.S.A. 1947, § 72-602; Acts 1997, No. 493, § 2; 2005, No. 1410, § 2; 2017, No. 69, § 3; 2019, No. 910, §§ 4897, 4898.

17-95-305. Disposition of funds.

(a) All funds received by the Arkansas State Medical Board shall be expended in furtherance of the purposes of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq. This includes, but is not specifically limited to, the publication of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., preparing and publishing a compilation of physicians, investigating violations of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., instituting actions to compel compliance with the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., defending actions brought against it as a result of its actions under the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and for such other purposes not inconsistent with the general purposes of the creation of the board as may be directed by the board.

(b)

(1) All moneys received by the board shall be disbursed by the Chair of the Arkansas State Medical Board or the Director of the Arkansas State Medical Board.

(2) The board shall furnish a surety bond and shall keep a true and faithful account of all moneys received and all moneys expended.

(3) The chair shall file annually with the Secretary of the Department of Health a report of all financial transactions duly audited by an independent accountant.

(c) Any surplus in the treasury of the board at the end of the year shall remain in the treasury and may be expended in succeeding years for the purposes set out in this section.

(d) It shall not be lawful for the board or for any member thereof in any manner whatsoever or for any purpose to charge or obligate the State of Arkansas for payment of any money whatsoever.

History: Acts 1957, No. 198, § 18; 1983, No. 365, § 5; A.S.A. 1947, § 72-618; Acts 1992 (1st Ex. Sess.), No. 38, § 3; 2005, No. 495, § 1; 2017, No. 69, § 4; 2019, No. 910, § 4899.

17-95-306. Criminal background check.

(a)

(1) Beginning July 1, 2005, every person applying for a license or renewal of a license issued by the Arkansas State Medical Board shall provide written authorization to the board to allow the Department of Arkansas State Police to release the results of a state and federal criminal history background check report to the board.

(2) The applicant shall be responsible for payment of the fees associated with the background checks.

(b)

(1) The state background check shall be from the Identification Bureau of the Department of Arkansas State Police.

(2) The federal background check shall:

(A) Be from the Federal Bureau of Investigation;

(B) Conform to the applicable federal standards; and

(C) Include the taking of fingerprints of the applicant.

(c) Upon completion of the criminal background checks required by this section, the Identification Bureau of the Department of Arkansas State Police:

(1) Shall forward to the board all releasable information obtained concerning the applicant; and

(2) May retain the fingerprinting card of the applicant until notified by the board that the person is no longer licensed.

History: Acts 2005, No. 1249, § 1.

17-95-307. License eligibility.

A person is not eligible to receive or hold a license to practice medicine or another healthcare profession issued by the Arkansas State Medical Board if the person has pleaded guilty or nolo contendere to or has been found guilty of a felony listed under § 17-3-102.

History: Acts 2005, No. 1249, § 1; 2019, No. 990, § 97.

17-95-308. Waiver.

(a) The requirements of § 17-95-307 may be waived by the Arkansas State Medical Board upon the request of:

(1) An affected applicant for licensure; or
(2) The person holding the license subject to revocation.

(b) The board may consider the following circumstances when considering a waiver, including, but not limited to:
(1) The age at which the crime was committed;
(2) The circumstances surrounding the crime;
(3) The length of time since the crime;
(4) Subsequent work history;
(5) Employment references;
(6) Character references; and
(7) Other evidence demonstrating that the applicant does not pose a threat to the health or safety to the public.

History: Acts 2005, No. 1249, § 1.

17-95-309. Background records sealed.

(a) Any background record received by the Arkansas State Medical Board from the Identification Bureau of the Department of Arkansas State Police shall not be available for examination except by:
(1) An affected applicant for licensure or his or her authorized representative; or
(2) A person whose license is subject to revocation or his or her authorized representative.

(b) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.

History: Acts 2005, No. 1249, § 1.

17-95-310. [Repealed.]

SUB-CHAPTER 4 – LICENSING

17-95-401. License required.

If any person who does not possess a valid license to practice medicine within this state and who is not exempted from the licensing requirements does any of the acts constituting the practice of medicine, he or she shall be deemed to be practicing medicine without complying with the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

History: Acts 1957, No. 198, § 4; 1971, No. 53, § 1; 1983, No. 838, § 3; A.S.A. 1947, § 72-604.

17-95-402. Penalties — Injunction.

(a)
(1) Every person who practices or attempts to practice medicine in any of its branches or who performs or attempts to perform any surgical operation for any person or upon any person within this state without first having complied with the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., shall be deemed guilty of a misdemeanor.
(2) Upon conviction he or she shall be punished by a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500) or by imprisonment in the county jail for a period of not less than one (1) month nor more than eleven (11) months, or by both fine and imprisonment. Each day of such a practice shall constitute a separate offense.

(b) The courts of record of this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of medicine in a proceeding by the Arkansas State Medical Board or any member thereof, or by any citizen of this state, in the county in which the alleged unlawful practice occurred or in which the defendant resides. The issuance of an injunction shall not relieve a person from criminal prosecution for violation of the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., but the remedy of injunction shall be in addition to liability to criminal prosecution.

(c) It is declared that any person who practices or attempts to practice medicine in the State of Arkansas without first obtaining a license authorizing him or her to so practice medicine is a public nuisance, and it is declared that the illegal practice of medicine in violation of the laws of the State of Arkansas is a public nuisance and is detrimental to the health, safety, security, and welfare of the people of the State of Arkansas.

History: Acts 1957, No. 198, §§ 19-21; A.S.A. 1947, §§ 72-619 — 72-621.

17-95-403. Application — Qualifications.

(a)

(1) Every person desiring a license to practice medicine shall make application to the Arkansas State Medical Board. The application shall be verified by oath and shall be in such form as shall be prescribed by the Arkansas State Medical Board.

(2) The application shall be accompanied by the license fee and such documents, affidavits, and certificates as are necessary to establish that the applicant possesses the qualifications prescribed by this section, apart from any required examination by the Arkansas State Medical Board.

(3) The burden of proof shall be upon the applicant, but the Arkansas State Medical Board may make such independent investigation as it may deem advisable to determine whether the applicant possesses the qualifications and whether the applicant has at any time committed any of the acts or offenses herein defined as unprofessional conduct.

(b) No person shall be granted a license to practice medicine in the State of Arkansas unless he or she:

(1) Is at least twenty-one (21) years of age;

(2) Has not been guilty of acts constituting unprofessional conduct as defined in § 17-95-409;

(3)

(A) Is a graduate of:

(i) A recognized United States or Canadian medical school whose entrance requirements and course of instruction have been approved by the Council on Medical Education of the American Medical Association;

(ii) A Canadian eclectic medical school which has been approved by the Council on Medical Education of the National Eclectic Medical Association; or

(iii)

(a) A foreign medical school whose entrance requirements and course of instruction have been approved by the Arkansas State Medical Board.

(b) He or she must also have:

(1) Served three (3) years as an intern, resident, or fellow, or a combination thereof, in an accredited postgraduate medical education program in the United States;

(2) Served three (3) years as an intern or resident in a postgraduate medical education program outside the United States, completed all steps of the United States Medical Licensing Examination, obtained Educational Commission for Foreign Medical Graduates certification, and either completed one (1) year or more of fellowship training accredited by the Accreditation Council for Graduate Medical Education in the United States or received American Board of Medical Specialties certification by the American Board of Medical Specialties; or

(3) Completed one (1) year as an intern or resident in an accredited postgraduate medical education program in the United States and be currently enrolled in an accredited postgraduate medical program in Arkansas.

(B) However, the Arkansas State Medical Board at such time as it deems expedient may require of every applicant for licensure:

(i) A properly verified certificate that he or she has served one (1) year of internship in a general accredited hospital; or

(ii) A certificate of his or her service in an accredited postgraduate medical education program as described in subdivision (b)(3)(A)(iii)*(b)* of this section; and

(4) Has successfully passed an examination approved by the Arkansas State Medical Board as set forth in its rules.

History: Acts 1957, No. 198, §§ 5, 6; 1971, No. 178, § 1; 1977, No. 199, § 1; A.S.A. 1947, §§ 72-605, 72-606; Acts 1992 (1st Ex. Sess.), No. 45, § 1; 1993, No. 1219, § 22; 2005, No. 498, § 1; 2013, No. 549, § 1; 2019, No. 267, § 1; 2019, No. 990, § 98.

17-95-404. Examinations.

(a) The Arkansas State Medical Board by and through its rules will approve and designate the examinations to be given to those individuals who desire a license to practice medicine in the State of Arkansas. The board will further set forth the standards by rule for successful completion of the examination for licensure.

(b) Examinations for a license to practice medicine shall be held not fewer than one (1) time in each year at such times and places as may be specified by the board.

(c) If in the opinion of the board the applicant possesses the necessary qualifications, the board shall issue to him or her a certificate.

(d) If an applicant fails to meet the minimum grade requirements in his or her examination, he or she may be reexamined upon a filing of a new application and the payment of a required fee.

History: Acts 1957, No. 198, § 8; A.S.A. 1947, § 72-608; Acts 1992 (1st Ex. Sess.), No. 45, § 2; 1999, No. 490, § 1; 2005, No. 495, § 2; 2019, No. 315, § 1622.

17-95-405. Credentials.

(a) A legally licensed physician and surgeon who has been issued a license to practice medicine in another state where the requirements for licensure are equal to those established by the State of Arkansas may be permitted by the Arkansas State Medical Board to practice his or her profession in this state without taking an examination upon payment of a fee as provided in § 17-95-411.

(b) The issuance of a license by credentials by the board shall be at the sole discretion of the board, and the board may provide such rules governing such an admission as may be deemed necessary by or desirable to the board.

History: Acts 1957, No. 198, § 9; 1977, No. 199, § 2; A.S.A. 1947, § 72-609; Acts 1993, No. 276, § 1; 2019, No. 315, § 1623.

17-95-406. Temporary permits.

(a) In cases of emergency and to prevent hardship, the Director of the Arkansas State Medical Board may issue a temporary permit to practice medicine upon payment of the fee required for applicants after satisfying himself or herself that the applicant has all the qualifications and meets all the requirements of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq. A temporary permit shall be valid only until the next meeting of the Arkansas State Medical Board and shall expire at that time.

(b)

(1) The board shall issue a temporary permit to practice medicine to any medical doctor licensed and qualified to practice medicine in the Philippines, a former possession of the United States, provided that the temporary permit issued shall authorize the person to practice medicine in this state only under the supervision of a duly licensed and qualified physician in this state.

(2) The temporary permit shall be for a period of not more than two (2) years. If at the end of the two (2) years the person to whom a temporary permit has been issued has not met the qualifications and has not passed the prescribed examinations for licensure to practice medicine in this state as provided in the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., it shall be unlawful for the board to grant an extension of or to issue a new temporary permit to that person.

(3) Nothing in this subsection shall prohibit the board from suspending or revoking the temporary permit of any person to whom a temporary permit is issued under the provisions of this subsection on any grounds which by law and rule would be grounds to revoke or suspend the license of a person licensed to practice medicine in this state, or for such periods of time as the person to whom the temporary permit is issued is not under the supervision of a licensed and qualified physician in this state.

(4) As used in this subsection, a person shall be deemed to be under the supervision of a licensed and qualified physician of this state when the physician shall notify the board in writing of his or her supervision of the medical practice of the person to whom the temporary permit is issued. It shall not be necessary that the person practice medicine out of the same office or in the same city or town in which the supervisory physician practices or resides.

History: Acts 1957, No. 198, § 10; 1971, No. 472, § 1; A.S.A. 1947, § 72-610; Acts 2019, No. 315, § 1624.

17-95-407. [Repealed.]

17-95-408. Annual registration.

(a) The annual license or reregistration fee of a physician licensed by the Arkansas State Medical Board to practice medicine in the State of Arkansas shall be paid before or during the birth month of the license holder beginning in 1998, and each year thereafter. During the implementation year of 1998, fees shall be prorated.

(b) Failure to pay the annual reregistration fee as provided in this section by the last day of the birth month of the license holder shall cause the license to practice medicine in the State of Arkansas of any person so failing to pay the reregistration fee to expire automatically.

(c)

(1) Any delinquent licentiate may be reinstated by paying all delinquent fees and a penalty of fifty dollars ($50.00) for each year or part thereof that he or she has been delinquent.

(2) The Arkansas State Medical Board shall not increase or set assessed fees exceeding the amounts in this section.

(3) If the Arkansas State Medical Board determines in its discretion that a reduction is in the best interest of the state, the Arkansas State Medical Board may reduce fees below the amounts in this section through the administrative rule process and by the approval of the Governor and either the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(d)

(1) If any licentiate fails for three (3) consecutive years to pay the reregistration fee, it shall be the duty of the board, without hearing or notice, to cancel and revoke his or her license, subject to reinstatement.

(2) If application for reinstatement is made, the board shall consider the professional qualifications of the applicant upon notice and hearing before ordering reinstatement. Unless such a showing shall thereupon be made to the board as would entitle the applicant to the issuance of an original license, reinstatement shall be denied.

(3) The applicant for reinstatement shall file a written application and pay the same fees required for the issuance of an original license.

(e) Any person practicing his or her profession while his or her license is suspended or after it has been canceled pursuant to this section shall be subject to the penalties prescribed by law.

History: Acts 1957, No. 198, §§ 15-17; 1983, No. 334, § 2; 1985, No. 890, § 2; A.S.A. 1947, §§ 72-615 — 72-617; Acts 1993, No. 275, § 1; 1997, No. 313, § 2; 2005, No. 495, § 3; 2019, No. 990, § 99; 2023, No. 79, § 4.

17-95-409. Denial, suspension, or revocation — Grounds — Definition.

(a)

(1) The Arkansas State Medical Board may revoke an existing license, impose penalties as listed in § 17-95-410, or refuse to issue a license in the event the holder or applicant, as the case may be, has committed any of the acts or offenses defined in this section to be unprofessional conduct.

(2) The words "unprofessional conduct", as used in the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., mean:

(A)

(i) Conviction of a felony listed under § 17-3-102.

(ii) The judgment of any such conviction, unless pending upon appeal, shall be conclusive evidence of unprofessional conduct;

(B) Resorting to fraud, misrepresentation, or deception in applying for or securing a license to practice medicine, in taking the examination for the license, or in seeking a renewal of a license;

(C) Aiding or abetting an unlicensed person to practice medicine;

(D) Procuring or aiding or abetting in procuring a wrongful and criminal abortion;

(E) Violation of the laws of the United States or the State of Arkansas regulating the possession, distribution, or use of narcotic or controlled drugs classed in Schedules I-V of the Controlled Substances Act of 1970 or the Uniform Controlled Substances Act, § 5-64-101 et seq., including any amendments thereto;

(F) Habitual indulgence in the use of alcohol to such an extent as to render himself or herself incapable of exercising that degree of skill and judgment in the treatment of his or her patients which the moral trust and confidence in him or her demands;

(G) Grossly negligent or ignorant malpractice;

(H) Habitual, intemperate, or excessive use of narcotics or of any other habit-forming drugs;

(I) Representing to a patient that a manifestly incurable condition of sickness, disease, or injury can be permanently cured;

(J) Becoming physically or mentally incompetent to practice medicine to such an extent as to endanger the public;

(K) Insanity or mental disease, if evidenced by an adjudication or by voluntary commitment to an institution for treatment of a mental disease or as determined by an examination conducted by three (3) impartial psychiatrists retained by the Arkansas State Medical Board;

(L) Soliciting for patronage; advertising for patronage in a false, fraudulent, deceptive, or misleading manner; advertising the quality of medical services; or advertising illegal procedures and practices;

(M) Offering, undertaking, attempting, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine or representing, directly or indirectly, that he or she can treat, operate on, or prescribe for any human condition by a method, means, or procedure which he or she refuses to divulge upon demand to the Arkansas State Medical Board;

(N) The willful betraying of a professional secret;

(O) Persistent and flagrant overcharging or overtreating of patients;

(P) Violating a rule of the Arkansas State Medical Board;

(Q) Violating a term of probation or an order previously imposed by the Arkansas State Medical Board;

(R) Having been found in violation of a statute or a rule governing the practice of medicine by a medical licensing authority or agency of another state; and

(S) Committing an ethical violation as determined by the Arkansas State Medical Board by rule.

(b)

(1)

(A) Upon receipt of a final order from another agency of the State of Arkansas or a final order from a court of this state after all appeal rights have been exhausted that finds a physician licensed to practice medicine in this state has breached the loan contract entered into by the physician under § 6-81-701 et seq., the Arkansas State Medical Board may suspend the license of that physician.

(B) The suspension shall be for a period of years equivalent to the number of years that the recipient is obligated to practice medicine in a rural area but has not so practiced and until the loan with interest together with any civil money penalties, as reduced by each full year of medical practice according to the terms of the loan contract, is paid in full.

(2) Upon notification from the Dean of the College of Medicine of the University of Arkansas for Medical Sciences and the Secretary of the Department of Health that exigent circumstances warrant a waiver of the suspension, the Arkansas State Medical Board shall reinstate the holder's license.

(3) In deciding whether to suspend a holder's medical license, the Arkansas State Medical Board, at its discretion, may adopt any or all recommendations, findings of fact, and conclusions of law issued or adopted by the Arkansas Rural Medical Practice Student Loan and Scholarship Board, an arbitrator, or a court.

History: Acts 1957, No. 198, § 13; 1965, No. 85, § 1; 1973, No. 486, § 1; 1981, No. 708, § 1; 1981, No. 876, § 1; A.S.A. 1947, § 72-613; Acts 1993, No. 1219, § 23; 1995, No. 1257, § 3; 2001, No. 464, § 5; 2007, No. 123, § 3; 2007, No. 1058, § 10; 2009, No. 1178, § 1; 2019, No. 910, § 4901; 2019, No. 990, § 100.

17-95-410. Denial, suspension, or revocation — Proceedings.

(a) Any person may file a complaint with the Arkansas State Medical Board against any person having a license to practice medicine in this state charging the licensee with:

(1) Failure to have the necessary qualifications as set out in § 17-95-403; and

(2) The commission of any of the offenses enumerated and described as unprofessional conduct in § 17-95-409.

(b) If the board finds a probable violation of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., or the rules of the board, the board shall review the complaint and issue an order and notice of hearing to the licensee.

(c)

(1) The order and notice of hearing shall set forth a specification of charges in sufficient detail that the person accused shall have full and complete disclosure of any alleged acts of misconduct, impropriety, or lack of qualification.

(2) When an order and notice of hearing is issued, the board or its agent shall send by registered mail to the person's last address of record a copy of the order and notice of hearing along with a written notice of the time and place of the hearing and a statement advising the person that he or she may be present in person or by counsel to offer evidence and be heard in his or her defense.

(3) The time fixed for the hearing shall not be less than thirty (30) days from the date of the mailing of the notice.

(d) At the time and place fixed for a hearing before the board, the board shall receive evidence upon the subject under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his or her defense. The board shall not be bound by strict or technical rules of

evidence but shall consider all evidence fully and fairly. However, all oral testimony considered by the board must be under oath.

(e)

(1) At the conclusion of the hearing, the board shall first decide whether the accused is guilty of the charges against him or her and then decide on appropriate disciplinary action.

(2) If the accused is found not guilty, the board shall dismiss the charges.

(3) If the accused is found guilty, the board may do one (1) or more of the following:

(A) Revoke his or her license;

(B) Suspend his or her license for a period not to exceed one (1) year;

(C) Issue a reprimand;

(D) Impose a probation allowing the licensee to continue practicing under terms and conditions found to be in the best interest of the accused and the general public; or

(E) Levy a fine of up to one thousand dollars ($1,000) per violation of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and collect out-of-pocket costs of investigation incurred by the board to conduct the disciplinary hearing.

(4) If the board suspends the license, it may issue a temporary license for whatever duration it decides and renew this temporary license at its discretion.

(f) Appeals may be had by either of the parties from the decision of the board in the manner now provided by law. All evidence considered by the board shall be reduced to writing and available for the purpose of appeal or certiorari to any of the parties of the hearing.

(g) Nothing in this section shall be construed so as to deprive any person of his or her rights without a full, fair, and impartial hearing.

History: Acts 1957, No. 198, § 14; A.S.A. 1947, § 72-614; Acts 1989, No. 362, § 1; 1993, No. 290, § 1; 2001, No. 464, § 6; 2019, No. 315, § 1625.

17-95-411. Fees.

(a) The Arkansas State Medical Board shall charge the following fees:

(1)

(A) For application for license by examination or by credentials, four hundred dollars ($400).

(B) If it is determined by the board that the credentials of the applicant are insufficient or the applicant withdraws his or her application before taking the examination, the board may return such portion of the fee as allowed by the rules of the board;

(2) For a temporary license or permit, fifty dollars ($50.00) for each six-month period;

(3) For certification of licentiate to another state, fifteen dollars ($15.00); and

(4)

(A)

(i) For annual license or reregistration fee, seventy dollars ($70.00).

(ii) Except as provided in subdivision (a)(4)(C) of this section, an annual license or reregistration fee is to be imposed upon each physician who holds a license to practice medicine in the State of Arkansas.

(B) The annual license or reregistration fee may be changed by the board provided that the amount shall be fixed by the board not less than sixty (60) days in advance of January 1 of each year.

(C) The board shall waive the annual license or reregistration fee of a physician who:

(i) Holds a license to practice medicine in the State of Arkansas; and

(ii) Is an active-duty member of the military.

(b)

(1) The board shall not increase or set assessed fees exceeding the amounts in this section.

(2) If the board determines in its discretion that a reduction is in the best interest of the state, the board may reduce fees below the amounts in this section through the administrative rule process and by the approval of the Governor and either the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

History: Acts 1957, No. 198, §§ 11, 15; 1983, No. 334, §§ 1, 2; 1985, No. 890, §§ 1, 2; A.S.A. 1947, §§ 72-611, 72-615; Acts 1987, No. 503, § 1; 1991, No. 593, § 1; 1993, No. 276, § 2; 1995, No. 721, § 1; 2017, No. 204, § 3; 2019, No. 315, § 1626; 2023, No. 79, § 5.

17-95-412. Academic licenses.

(a) The Arkansas State Medical Board may issue an academic license to practice medicine to any physician who meets:

(1) The qualifications and requirements set forth in the rules of the Arkansas State Medical Board; and

(2) The conditions and requirements set forth in subsection (b) of this section.

(b)

(1) The physician shall:

(A) Submit an application to the Arkansas State Medical Board;

(B) Provide information the Arkansas State Medical Board by rule may require;

(C) Pay a licensure fee that the Arkansas State Medical Board may set by rule to cover the costs of administering the Alternative to Discipline Program; and

(D) Be serving as a faculty member in the State of Arkansas under the supervision of a faculty member licensed by the Arkansas State Medical Board at an academic medical program accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association operated in the State of Arkansas and established by and under the control of a medical school located in the State of Arkansas and accredited by an accrediting agency recognized by the United States Department of Education or approved by the Arkansas Higher Education Coordinating Board to seek accreditation by an accrediting agency recognized by the United States Department of Education.

(2) The academic license to practice medicine in the State of Arkansas shall authorize the practice of medicine only within the clinical and educational programs in the State of Arkansas that are established and administered by a medical school located in the State of Arkansas and accredited by an accrediting agency recognized by the United States Department of Education or approved by the Arkansas Higher Education Coordinating Board to seek accreditation by an accrediting agency recognized by the United States Department of Education.

(c)

(1) The Arkansas State Medical Board shall issue each academic license for a period of one (1) year.

(2) At the end of the one (1) year, the academic license shall lapse, and the physician shall make an additional application to the Arkansas State Medical Board if the physician desires to continue the practice of medicine under the academic license.

(3) At the end of the second year of practice with an academic license, the physician is eligible for an active, unrestricted license to practice medicine in the state.

(d) A physician who obtains an academic license to practice medicine in the State of Arkansas shall comply with the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and all rules of the Arkansas State Medical Board.

History: Acts 2005, No. 497, § 1; 2017, No. 147, § 3; 2017, No. 1061, § 1; 2019, No. 701, § 1.

17-95-413. Nonparticipation in maintenance of licensure or maintenance of certification — Definitions.

(a) As used in this section:

(1) "Maintenance of certification" means any process requiring periodic recertification examinations or other activities to maintain specialty medical certification; and

(2) "Specialty medical board certification" means a certification by a board that:

(A) Specializes in one (1) particular area of medicine; and

(B) Typically requires examinations that are in addition to the requirements of the Arkansas State Medical Board to practice medicine.

(b) The Arkansas State Medical Board shall not require any form of specialty medical board recertification or any maintenance of certification to practice medicine in this state.

History: Acts 2019, No. 804, § 1.

17-95-414. Multiyear license or registration for physicians.

(a) The Arkansas State Medical Board shall offer a multiyear license or registration for physicians as an option other than the annual renewal of license or registration.

(b) Following initial licensure or registration, a physician may request a multiyear license or registration for a period of two (2) years by providing the following information to the board with the application:

(1) All information necessary for the licensure or registration under law or rule to include proof of continuing medical education equivalent to the period requesting; and

(2) Payment of the fees for licensure or registration for two (2) years, if the requested licensure or registration is for a period of two (2) years.

History: Acts 2021, No. 803, § 1.

17-1-107. Reinstatement of licenses — Definition.

(a) An occupational licensing entity shall by rule adopt reduced requirements for reinstatement of a license, registration, permit, or certification for a person who:

(1) Demonstrates that he or she:

(A) Was previously licensed, registered, permitted, or certified to practice in the field of his or her profession at any time in this state;

(B) Held his or her license, registration, permit, or certification in good standing at the time of licensing, registration, permitting, or certification;

(C) Did not have his or her license, registration, permit, or certification revoked for:

(i) An act of bad faith; or

(ii) A violation of law, rule, or ethics;

(D) Is not holding a suspended or probationary license, registration, permit, or certification in any state; and

(E) Is sufficiently competent in his or her field; and

(2) Pays any reinstatement fee required by law.

(b) The occupational licensing entity may require that sufficient competency in a particular field be demonstrated by:

(1) Proficiency testing;

(2) Letters of recommendation; or

(3) Both proficiency testing and letters of recommendation.

(c)

(1) Except as provided under subsection (b) of this section, the occupational licensing entity shall not require a person who meets the requirements of subsection (a) of this section to participate in the apprenticeship, education, or training required as a prerequisite to licensing, registration, permitting, or certification of a new professional in the field.

(2) The occupational licensing entity may require the person to participate in continuing education or training if the continuing education or training is required for all professionals in the field to maintain the license, registration, permit, or certification.

(d) A person shall not be required to comply with requirements under this section to obtain reinstatement of his or her license, registration, permit, or certification if the person meets the requirements for reciprocity.

(e) If a criminal background check is required of an applicant for an original license, registration, permit, or certification, or of a person currently holding a license, registration, permit, or certification, then the occupational licensing entity may require a person seeking reinstatement under this section to meet the same criminal background check requirements as the applicant for an original license, registration, permit, or certification, or as the person currently holding a license, registration, permit, or certification.

(f)

(1) As used in this section, "occupational licensing entity" means an agency, office, council, bureau, board, commission, department, committee, or other authority of the government of the State of Arkansas, whether within or subject to review by another agency that has the duty to license, register, permit, certify, or otherwise approve a person to work in a particular field or industry.

(2) As used in subdivision (f)(1) of this section, "agency" does not include the General Assembly, the courts, or the Governor.

History: Acts 2015, No. 1066, § 1; 2019, No. 1011, § 1.

SUB-CHAPTER 5 – CRITICAL MEDICAL SHORTAGE AREAS

17-95-501. Legislative intent.

(a) The General Assembly finds and declares that this subchapter is necessary to assist those areas of critical medical shortage in the State of Arkansas in recruiting and retaining physicians to meet the primary medical care needs of the citizens residing in these areas.

(b)

(1) It is the intent of the General Assembly to grant authority to the Arkansas State Medical Board to issue temporary licenses to practice medicine in defined critical medical shortage areas for a specified period of time and under required conditions to be defined in § 17-95-503.

(2) It is the further intent of the General Assembly that the board utilize every means at its disposal under the laws of this state, including the authority granted by this subchapter, to increase the number of practicing physicians in the areas of critical medical shortage as defined in § 17-95-502.

(3) It is the further intent of this subchapter that neither the board nor the Executive Director of the Arkansas State Medical Board, when acting in behalf of the board and under authority granted to him or her by the board, shall be liable, collectively or individually, for civil damages from claims pertaining to the administration of this subchapter.

History: Acts 1977, No. 415, § 1; A.S.A. 1947, § 72-628; Acts 2005, No. 495, § 4; 2017, No. 69, § 5.

17-95-502. Definitions.

As used in this subchapter:

(1) "Critical medical shortage area" is an area wherein there is a critical shortage of physicians for the area's population as defined by the Department of Health, Education, and Welfare in the Federal Register, Volume 41, No. 13, dated July 6, 1976, and as updated by the Department of Health;

(2) "E.C.F.M.G." is an examination for graduates of foreign medical schools prepared and administered by the Educational Commission for Foreign Medical Graduates;

(3) "FLEX" is the Federation Licensing Examination prepared and issued semiannually by the Federation of State Medical Boards. The Federation Licensing Examination includes three (3) parts: the basic science, the clinical science, and the clinical competency average. Successful passage of the Federation Licensing Examination with an overall weighted average of seventy-five (75) is required for medical licensure by the Arkansas State Medical Board; and

(4) "Temporary license" is a license issued by the board to practice medicine for a period of twelve (12) months in a critical medical shortage area as defined in subdivision (1) of this section. A temporary license may be renewable by the board under the conditions and requirements of this subchapter for additional periods of twelve (12) months not to exceed the limitations set forth in § 17-95-504.

History: Acts 1977, No. 415, § 2; A.S.A. 1947, § 72-629; Acts 2005, No. 495, § 5.

17-95-503. Temporary license.

(a) The Arkansas State Medical Board may issue a temporary license to any physician who meets the qualifications and requirements for medical licensure as established by the board except for successful passage of the examination as prescribed by the rules of the board. However, the physician must fulfill the following additional conditions and requirements to be eligible for temporary licensure:

(1) The physician must practice medicine in an area of critical medical shortage in Arkansas; and

(2) The physician, if a graduate of a foreign medical school, must have satisfactorily passed the Educational Commission for Foreign Medical Graduates examination.

(b) To be eligible for a renewal of a temporary license by the board, the physician must fulfill the following requirements to be administered by the board:

(1) The physician must submit a written request for the renewal to the board;

(2) The physician must agree to repeat the examination for licensure during the twelve-month term of the renewed temporary license; and

(3) The physician must continue to fulfill the conditions and requirements of this subchapter for temporary licensure during the term of the renewed licensure.

(c) The board shall review the physician's progress toward successfully passing the examination for licensure, as well as the physician's performance in the community where he or she is practicing medicine before renewing the physician's temporary license.

History: Acts 1977, No. 415, §§ 3, 4; A.S.A. 1947, §§ 72-630, 72-631; Acts 1992 (1st Ex. Sess.), No. 45, § 3; 2019, No. 315, § 1627.

17-95-504. Remedial training.

(a) A temporary license may be granted to an eligible physician for not more than three (3) twelve-month terms.

(b)

(1) If after that time the physician has not satisfactorily passed the examination for licensure, the Arkansas State Medical Board, in collaboration with the Dean of the College of Medicine of the University of Arkansas for Medical Sciences, shall review the physician's performance and areas of deficiency on the examination for licensure and shall prescribe a plan of remedial training for the physician.

(2) The physician must carry out the prescribed plan before being eligible for either a regular license based on successful passage of the examination for licensure or another period of temporary licensure under the same provisions and requirements as were originally applied for his or her temporary license under the provisions of this subchapter.

History: Acts 1977, No. 415, § 5; A.S.A. 1947, § 72-632; Acts 1992 (1st Ex. Sess.), No. 45, § 4.

17-95-505. Nonliability of board.

In the application of the authorities and provisions of this subchapter, the Arkansas State Medical Board, either individually or collectively, and the Executive Director of the Arkansas State Medical Board, when acting on behalf of the board, are not liable for civil damages from claims pertaining to the administration of the provisions of this subchapter.

History: Acts 1977, No. 415, § 6; A.S.A. 1947, § 72-633; Acts 2005, No. 495, § 6; 2017, No. 69, § 6.

SUB-CHAPTER 6 – REPEALED

17-95-601 — 17-95-605. [Repealed.]

SUB-CHAPTER 7 – CHRONIC INTRACTABLE PAIN TREATMENT ACT

17-95-701. Title.

This subchapter shall be known and may be cited as the "Chronic Intractable Pain Treatment Act".

History: Acts 2003, No. 1405, § 1.

17-95-702. Findings.

The General Assembly finds that:

(1) Pain management plays an important role in good medical practice;

(2) Physicians should recognize the need to make pain relief accessible to all patients with chronic intractable pain; and

(3) Physicians should view pain management as a regular part of their medical practice for all patients with chronic intractable pain.

History: Acts 2003, No. 1405, § 1.

17-95-703. Definitions.

As used in this subchapter:

(1) "Chronic intractable pain" means a pain state for which the cause of the pain cannot be removed or otherwise treated and for which no relief or cure has been found after reasonable efforts by a physician;

(2)

(A) "Dangerous or controlled drugs" means drugs used for pain relief, including, but not limited to:

(i) Opioids; and

(ii) Other drugs classified under Schedule II, III, IV, or V by the United States Food and Drug Administration.

(B) "Dangerous or controlled drugs" does not include any substance the prescription of which is illegal under federal law;

(3) "Disciplinary action" means any remedial or punitive sanctions imposed on a licensed physician by the Arkansas State Medical Board;

(4) "Patient" means a person seeking medical diagnosis and treatment; and

(5) "Physician" means a licensee of the board.

History: Acts 2003, No. 1405, § 1; 2019, No. 386, § 51.

17-95-704. Arkansas State Medical Board — Treatment — Prohibitions.

(a)

(1) A physician shall not be subject to disciplinary action by the Arkansas State Medical Board solely for prescribing dangerous or controlled drugs for the relief of chronic intractable pain.

(2)

(A)

(i) Any allegation of improper prescribing determined to require a board hearing shall be referred to the Pain Management Review Committee before any board hearing or action.

(ii)

(a) However, in exceptional limited substantive instances requiring immediate action to protect the public health, an emergency action under § 25-15-211(c) may be implemented.

(b) The implementation of an emergency action under § 25-15-211(c) shall in no way be used by the board to circumvent, void, supplant, or otherwise limit the role of the committee as provided in this subchapter.

(B) The board shall provide the committee all necessary documentation for the review process in a timely manner.

(3) The board shall direct the committee to use the criteria under subsections (d) and (e) of this section to review a physician's conduct in regard to prescribing, administering, ordering, or dispensing pain medications and other drugs necessary to treat chronic intractable pain.

(4)

(A) If the board determines that an allegation or a question regarding a physician's prescribing does not justify a board hearing, in lieu of a board hearing, the board may refer a physician to the committee for review and recommendations to the board.

(B) The review and recommendations under subdivision (a)(4)(A) of this section shall not adversely affect the physician's license or licensure status.

(b) The board shall:

(1) Make reasonable efforts to notify healthcare providers under its jurisdiction of the existence of this subchapter;

(2) Inform any healthcare provider licensed by the board and investigated regarding the provider's practices in the management of pain of the existence of this subchapter; and

(3)

(A) In a disciplinary hearing, present opinion evidence from a full-time active practice physician in direct patient care who is knowledgeable in pain management.

(B) The physician has the right to present testimony from a full-time active practice physician in direct patient care who is knowledgeable in pain management.

(c)

(1) In lieu of a finding of gross and ignorant malpractice, the board after a hearing may incrementally impose sanctions as follows:

(A) Monitor prescribing habits of the physician not to exceed six (6) months;

(B) Require the physician to voluntarily surrender his or her United States Drug Enforcement Administration license to the board for a specified period of time not to exceed three (3) months;

(C) Suspend the physician's license, stay the suspension, and require monitoring of prescribing habits;

(D) Revoke the physician's license, stay revocation, and require monitoring of the physician's prescribing habits for a specified time; and

(E) Revoke the physician's license for serious violations of statutes and rules.

(2) With a finding of severe violation of statutes and rules, the board may initially impose the more severe sanctions.

(3) At any level of sanction, the board may require continuing medical education hours in proper prescribing habits.

(d) Based upon evaluation and management of a patient's individual needs, a physician may:

(1) Treat a patient who develops chronic intractable pain with a dangerous or controlled drug to relieve the patient's pain;

(2) Continue to treat the patient for as long as the pain persists;

(3) Treat the pain by managing it with dangerous or controlled drugs in amounts or combinations that may not be appropriate for treating another medical condition;

(4) Administer large doses of dangerous or controlled drugs for pain management if the benefit of relief outweighs the risk of the large dose; and

(5) Administer a large dose of a dangerous or controlled drug even if its use may increase the risk of death if the purpose is not to cause or assist in a patient's death.

(e) A physician may not:

(1) Prescribe or administer dangerous or controlled drugs intended to manage chronic intractable pain to treat a patient for chemical dependency on drugs or controlled substances;

(2) Prescribe or administer dangerous or controlled drugs to a person the physician knows to be using drugs for nontherapeutic purposes;

(3) Prescribe or administer dangerous or controlled drugs to a person for other than legitimate medical purposes; or

(4)

(A) Cause or assist in causing the suicide, euthanasia, or mercy killing of any individual.

(B) However, causing or assisting in causing the suicide, euthanasia, or mercy killing of any individual does not include prescribing, dispensing, or administering medical treatment for the purpose of alleviating pain or discomfort even if that use may increase the risk of death so long as the treatment is not furnished for the purpose of causing or assisting in causing the death of the individual.

History: Acts 2003, No. 1405, § 1; 2005, No. 2164, § 1; 2019, No. 315, §§ 1628, 1629.

17-95-705. Pain Management Review Committee — Membership — Duties.

(a) There is created the Pain Management Review Committee, appointed by the Arkansas State Medical Board.

(b) The committee shall consist of five (5) members who are full-time active physicians in direct patient care, two (2) of whom may be board-certified pain management specialists and three (3) of whom may be physicians with significant pain management in their practices or with a degree in pharmacy, appointed by the board from a list provided by the Arkansas Osteopathic Medical Association, the Arkansas Medical Society, Inc., and the Arkansas Pain Society.

(c) The committee shall:

(1) Have committee representation from the Arkansas Osteopathic Medical Association, the Arkansas Medical Society, Inc., and the Arkansas Pain Society to develop guidelines for investigations of complaints regarding conduct in violation of this subchapter;

(2) Review complaints on an individual patient-needs basis regarding physicians treating chronic intractable pain in violation of this subchapter; and

(3)

(A) Provide an objective critique to the board for board determination in a timely manner and if so determined, before the board's disciplinary hearing.

(B) In order to ensure a fair, impartial, and objective board hearing, no board member shall be:

(i) Present while the committee reviews allegations of improper prescribing; or

(ii) Involved in any way in the committee's deliberations.

History: Acts 2003, No. 1405, § 1; 2005, No. 2164, § 2.

17-95-706. Scope.

This subchapter does not condone, authorize, or approve mercy killing or euthanasia, and no treatment authorized by this subchapter may be used for mercy killing or euthanasia.

History: Acts 2003, No. 1405, § 1.

17-95-707. Immunity — Criminal prosecution.

No physician shall be subject to criminal prosecution for prescribing or administering controlled substances under appropriate criteria in the course of treatment of a person for chronic intractable pain.

History: Acts 2003, No. 1405, § 1.

OTHER PROVISIONS

PROTECTING MINORS FROM MEDICAL MALPRACTICE ACT

16-114-401. Definitions.

As used in this subchapter:

(1)

(A) "Gender transition procedure" means any medical or surgical service, including without limitation physician's services, inpatient and outpatient hospital services, or prescribed drugs related to gender transition that seeks to:

(i) Alter or remove physical or anatomical characteristics or features that are typical for the individual's biological sex; or

(ii) Instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including without limitation medical services that provide puberty-blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features in the opposite biological sex, or genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition.

(B) "Gender transition procedure" does not include:

(i) Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are irresolvably ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

(ii) Services provided when a physician has otherwise diagnosed a disorder of sexual development that the physician has determined through genetic or biochemical testing that the person does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

(iii) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state and federal law or whether or not funding for the gender transition procedure is permissible under this subchapter; or

(iv) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the individual in imminent danger of death or impairment of major bodily function unless surgery is performed;

(2) "Healthcare professional" means the same as defined in § 20-9-1501;

(3) "Mental health professional" means a psychiatrist or psychologist licensed, certified, or otherwise authorized by the laws of this state to administer mental health care in the ordinary course of the practice of his or her profession;

(4) "Minor" means an individual who is younger than eighteen (18) years of age; and

(5) "Public funds" means the same as defined in § 20-9-1501.

History: Acts 2023, No. 274, § 1.

16-114-402. Right of action.

(a) A healthcare professional who performs a gender transition procedure on a minor is liable to the minor if the minor is injured, including without limitation any physical, psychological, emotional, or physiological injury, by the gender transition procedure, related treatment, or the after effects of the gender transition procedure or related treatment.

(b)

(1) A minor injured as provided under subsection (a) of this section, or a representative of a minor injured as provided under subsection (a) of this section who receives a gender transition procedure, including without limitation a parent or legal guardian of a minor injured as provided under subsection (a) of this section who receives a gender transition procedure acting on behalf of the minor, may bring a civil action against the healthcare professional who performed the gender transition procedure on the minor in a court of competent jurisdiction for:

(A) Declaratory or injunctive relief;

(B) Compensatory damages;

(C) Punitive damages; and

(D) Attorney's fees and costs.

(2) A civil action under subdivision (b)(1) of this section shall be filed not later than fifteen (15) years after the date on which the minor turns eighteen (18) years of age, or would have turned eighteen (18) years of age if the minor died before turning eighteen (18) years of age.

History: Acts 2023, No. 274, § 1.

16-114-403. Safe harbor.

(a) It is a defense to a civil action brought under § 16-114-402 that, before performing a gender transition procedure on a minor:

(1) The healthcare professional documented the minor's perceived gender or perceived sex for two (2) continuous years, and the minor's perceived gender or perceived sex was invariably inconsistent with the minor's biological sex throughout the two (2) years;

(2) To the extent that the minor suffered from a mental health concern, at least two (2) healthcare professionals, including at least one (1) mental health professional, certified in writing that the gender transition procedure was the only way to treat the mental health concern;

(3) At least two (2) healthcare professionals, including at least one (1) mental health professional, certified in writing that the minor suffered from no other mental health concerns, including without limitation depression, eating disorders, autism, attention deficit hyperactivity disorder, intellectual disability, or psychotic disorders; and

(4) The healthcare professional received the voluntary and informed consent of the parent or legal guardian of the minor and the minor as provided in subsection (b) of this section.

(b) Consent to a gender transition procedure is voluntary and informed only if, at least thirty (30) days before the first treatment of the gender transition procedure and during every subsequent medical visit for treatment during the following six (6) months, the minor and the minor's parent or legal guardian receive verbal notice and written notice in at least 14-point, proportionally spaced typeface that state the following facts, verbatim:

"If your child begins one (1) of these treatments, it may actually worsen the discordance and thus increase the likelihood that your child will need additional and more serious interventions to address the worsening condition. For example, if your child begins socially transitioning or taking puberty blockers, that treatment may significantly increase the likelihood that your child's discordance will worsen and lead to your child eventually seeking cross-sex hormones or even surgery to remove some of your child's body parts.

Sweden, Finland, and the United Kingdom have conducted systematic reviews of evidence and concluded that there is no evidence that the potential benefits of puberty blockers and cross-sex hormones for this purpose outweigh the known or assumed risks.

Medical authorities in Sweden, Finland, and the United Kingdom have since recommended psychotherapy as the first line of treatment for youth gender dysphoria, with drugs and surgeries reserved as a measure of last resort. Medical authorities in France have advised 'great caution' when prescribing hormones for gender dysphoria.

There are people who underwent gender transition treatments as minors and later regretted that decision and the physical harm that these treatments caused, and the total percentage of people who experience this regret is unknown. Some estimate that the rate is below two percent (2%), but that estimate is based on studies done on adults who transitioned as adults or on minors who transitioned under highly restrictive and controlled conditions.

Sometimes gender transition treatments have been proposed as a way to reduce the chances of a minor committing suicide due to discordance between the minor's sex and his or her perception, but the rates of actual suicide from this discordance remain extremely low. Furthermore, as recognized by health authorities in Europe, there is no evidence that suicidality is caused by 'unaffirmed' gender or that gender transition treatments are causally linked to a reduction in serious suicidal attempts or ideations.

For puberty blockers:

Puberty blockers are not approved for this purpose by the United States Food and Drug Administration, which is the federal agency that determines which drugs are safe and effective for humans to use. Claims about puberty blockers' safety and efficacy are based on their use for precocious puberty, a different condition in which normal puberty is allowed to resume once the patient reaches the appropriate age. Studies on the benefits of using puberty blockers for gender dysphoria are notoriously weak. Puberty blockers are not fully reversible because, among other risks, puberty blockers may intensify a minor's discordance and cause it to persist. Puberty blockers increase the risk of your child being sterilized, meaning that he or she will never be able to have children. Puberty blockers may also cause diminished bone density for your child, increasing the risk of fracture and early osteoporosis. Puberty blockers may also prevent your child from ever being able to engage in sexual activity or achieve orgasm for the rest of your child's life. There is no research on the long-term risks to minors of persistent exposure to puberty blockers. The full effects of puberty blockers on brain development and cognition are unknown.

For cross-sex hormones:

The use of cross-sex hormones in males is associated with numerous health risks, such as thromboembolic disease, including without limitation blood clots; cholelithiasis, including gallstones; coronary artery disease, including without limitation heart attacks; macroprolactinoma, which is a tumor of the pituitary gland; cerebrovascular disease, including without limitation strokes; hypertriglyceridemia, which is an elevated level of triglycerides in the blood; breast cancer; and irreversible infertility. The use of cross-sex hormones in females is associated with risks of erythrocytosis, which is an increase in red blood cells; severe liver dysfunction; coronary artery disease, including without limitation heart attacks; hypertension; and increased risk of breast and uterine cancers. Once a minor begins cross-sex hormones, the minor may need to continue taking those hormones for many years and possibly for the remainder of the minor's life. The cost of these hormones may be tens of thousands of dollars. If the use of cross-sex hormones leads to surgery, the total cost of transitioning may exceed one hundred thousand dollars ($100,000).

For surgical procedures:

The dangers, risks, complications, and long-term concerns associated with these types of procedures are almost entirely unknown. There are no long-term studies on either the effectiveness or safety of these surgical procedures."

History: Acts 2023, No. 274, § 1.

16-46-106. Access to medical records for legal proceedings, adjustment of insurance claim, or processing and underwriting of life insurance policy application - Definitions

(a) In contemplation of, preparation for, or use in any legal proceeding, adjustment of an insurance claim, or the processing and underwriting of a life insurance application a person who is or has been a patient of a medical provider is entitled to obtain access, personally or through another person authorized to request the patient's medical records, to the patient's medical records, through a written request, and shall be furnished copies of all requested medical records after paying the relevant expense as provided in this section.

(b)

(1) A photocopy of a medical record shall not cost more than fifty cents (50¢) per page for the first twenty-five (25) pages and twenty-five cents (25¢) for each additional page.

(2)

(A) A labor charge not exceeding twenty-five dollars ($25.00) may be charged for each request for medical records under subsection (a) of this section, and the actual cost of any required postage may also be charged.

(B) However, in the alternative to the labor charge described in subdivision (b)(2)(A) of this section, a reasonable retrieval fee for stored, printed, or written medical records that do not exist in an electronic format may be added to the photocopy charges described in subdivision (b)(1) of this section if the requested medical records are stored at a location other than the location of the medical provider.

(C) If the patient or person authorized to request the patient's medical records requests that the medical records be notarized or certified, an additional fee of two dollars ($2.00) may be charged.

(D) This subsection does not apply to medical records that exist in an electronic format or copies of an X-ray.

(c)

(1) If the medical records requested under subsection (a) of this section exist in an electronic format, the medical provider shall furnish the medical records in an electronic format, including without limitation through secure electronic transmission to the extent consistent with federal law.

(2) A medical provider is not required to produce medical records in a specific electronic format under this subsection unless a specific electronic format is required by the Arkansas Rules of Civil Procedure or the court if the request is for use in a legal proceeding.

(3) Medical records requested that exist in electronic format shall be produced within thirty (30) days after receipt of the request unless a different deadline is established under the Arkansas Rules of Civil Procedure or by the court.

(4)

(A) The fee for producing medical records under this subsection is seventy-five dollars ($75.00), and the actual cost of postage, if any postage is required, may be charged in addition to the fee for producing medical records.

(B) The fee and postage charges allowed under subdivision (c)(4)(A) of this section are the only fees and charges allowed for producing medical records under this subsection.

(d) This section does not prohibit reasonable fees for narrative medical reports or medical review when performed by a medical provider subject to the request for medical records under this section, but only if a narrative medical report or medical review is requested by the person or entity requesting the records.

(e)

(1) If a doctor believes a patient should be denied access to his or her medical records for any reason, the doctor must provide the patient or the patient's guardian or attorney a written determination that disclosure of such information would be detrimental to the individual's health or well-being.

(2)

(A) At such time, the patient or the patient's guardian or attorney may select another doctor in the same type of practice as the doctor subject to the request to review such information and determine if disclosure of such information would be detrimental to the patient's health or well-being.

(B) If the second doctor determines, based upon professional judgment, that disclosure of such information would not be detrimental to the health or well-being of the individual, the medical records shall be released to the patient or the patient's guardian or attorney.

(3) If the determination is that disclosure of such information would be detrimental, then it either will not be released or the objectionable material will be obscured before release.

(4) The cost of this review of the patient's record will be borne by the patient or the patient's guardian or attorney.

(f)

(1) This section does not preclude the existing subpoena process.

(2) If a patient or the person authorized to request the patient's medical records is compelled to use the subpoena process in order to obtain access to, or copies of, the patient's medical records after reasonable requests have been made and a reasonable time has expired, then the court issuing the subpoena and having jurisdiction over the proceedings shall grant the patient or the person authorized to request the patient's medical records a reasonable attorney's fee plus costs of court against the medical provider.

(g) This section does not apply to the Department of Corrections.

(h)

(1) If a request for the patient's own medical records is submitted by the patient or a person authorized to request the patient's medical records under this section, then access shall be provided according to all the requirements of the patient access regulations promulgated under the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., and the Health Information Technology for Economic and Clinical Health Act, 42 U.S.C. § 201 et seq., as they existed on January 1, 2023.

(2) The standards stated in subdivision (h)(1) of this section, with the exception of the fee provisions in the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., and the Health Information Technology for Economic and Clinical Health Act, 42 U.S.C. § 201 et seq., as they existed on January 1, 2023, apply regardless of whether the patient or person authorized to request the patient's medical records requests that the medical records be sent to:

(A) The patient;
(B) A person authorized to request the patient's medical records;
(C) An attorney; or
(D) Another third party.

(i) As used in this section:

(1) "Medical provider" means a doctor, hospital, ambulance provider, medical healthcare provider, or other medical institution that provides medical care;

(2) "Person authorized to request the patient's medical records" means a person or entity who presents a properly executed medical records authorization; and

(3)

(A) "Photocopy" means a photographic copy of printed or written material in a physical form.

(B) "Photocopy" does not include an electronically stored record that has not been printed into a physical form.

History: Acts 1991, No. 767, §§ 1, 2; 1995, No. 708, § 1; 1999, No. 333, §§ 1, 2; 2007, No. 662, § 1; 2019, No. 910, § 855; 2023, No. 765, § 1.

MEDICAL ETHICS AND DIVERSITY ACT

17-80-501. Title.

This subchapter shall be known and may be cited as the "Medical Ethics and Diversity Act".

History: Acts 2021, No. 462, § 1.

17-80-502. Legislative findings and purpose.

(a) The General Assembly finds that:

(1) The right of conscience is a fundamental and unalienable right;

(2) The right of conscience was central to the founding of the United States, has been deeply rooted in the history and tradition of the United States for centuries, and has been central to the practice of medicine through the Hippocratic oath for millennia;

(3) Despite its importance, threats to the right of conscience of medical practitioners, healthcare institutions, and healthcare payers have become increasingly more common and severe in recent years;

(4) The swift pace of scientific advancement and the expansion of medical capabilities, along with the notion that medical practitioners, healthcare institutions, and healthcare payers are mere public utilities, promise only to exacerbate the current crisis unless something is done to restore the importance of the right of conscience; and

(5) It is the public policy of this state to protect the right of conscience of medical practitioners, healthcare institutions, and healthcare payers.

(b) It is the purpose of this subchapter to protect all medical practitioners, healthcare institutions, and healthcare payers from discrimination, punishment, or retaliation as a result of any instance of conscientious medical objection.

History: Acts 2021, No. 462, § 1.

17-80-503. Definitions.

As used in this subchapter:

(1)

(A) "Conscience" means the religious, moral, or ethical beliefs or principles of a medical practitioner, healthcare institution, or healthcare payer.

(B) "Conscience" of an institutional entity or corporate body may be determined by reference to existing or proposed documents, including without limitation any published religious, moral, or ethical guidelines or directives, mission statements, constitutions, bylaws, articles of incorporation, policies, regulations, or other relevant documents;

(2)

(A) "Discriminate" means to take an adverse action against, or communicate a threat of adverse action to, any medical practitioner, healthcare institution, or healthcare payer as a result of a decision by a medical practitioner, healthcare institution, or healthcare payer to decline to participate in a

healthcare service on the basis of the conscience of the medical practitioner, healthcare institution, or healthcare payer, including without limitation:

(i) Termination;

(ii) Refusal of staff privileges;

(iii) Refusal of board certification;

(iv) Adverse administrative or disciplinary action;

(v) Demotion;

(vi) Loss of career specialty;

(vii) Reduction of wages, benefits, or privileges;

(viii) Refusal to award any grant, contract, or other program;

(ix) Refusal to provide residency training opportunities;

(x) Refusal to authorize the creation, expansion, improvement, acquisition, affiliation, or merger of a healthcare institution;

(xi) Reassignment to a different shift or job title;

(xii) Addition or increase of administrative duties;

(xiii) Denial, deprivation, or disqualification of licensure;

(xiv) Disqualification from or withholding of financial aid or other financial assistance; and

(xv) Any other penalty or disciplinary retaliatory action, whether executed or threatened.

(B) "Discrimination" does not include the negotiation or purchase of insurance by a nongovernment entity;

(3) "Healthcare institution" means a public or private organization, corporation, partnership, sole proprietorship, association, agency, network, joint venture, or other entity involved in providing healthcare services, including without limitation:

(A) A hospital;

(B) A clinic;

(C) A medical center;

(D) An ambulatory surgical center;

(E) A private physician's office;

(F) A pharmacy;

(G) A nursing home;

(H) A medical training facility;

(I) An individual, association, corporation, or other entity attempting to establish a new healthcare institution or operating an existing healthcare institution; and

(J) Any other institution or location where healthcare services are provided to an individual;

(4) "Healthcare payer" means an employer, health plan, health maintenance organization, insurance company, management services organization, or any other entity that pays for or arranges for the payment of any healthcare service provided to a patient, whether the payment is made in whole or in part;

(5) "Healthcare service" means medical care provided to a patient at any time over the entire course of treatment, including without limitation:

(A) Initial examination;

(B) Patient referral;

(C) Counseling or psychological therapy;

(D) Therapy;

(E) Testing;

(F) Research;

(G) Diagnosis or prognosis;

(H) Instruction;

(I) Dispensing or administering, or both, of any drug, medication, or device;

(J) Set up or performance of a surgery or other procedure;

(K) Recordkeeping and recordmaking procedures and notes related to treatment; and

(L) Other care or services provided by a medical practitioner or healthcare institution;

(6) "Medical practitioner" means an individual who is:

(A) A physician;

(B) A physician assistant;

(C) An advanced practice registered nurse or other nurse practitioner;

(D) A pharmacist;

(E) A medical researcher or laboratory technician to the extent that he or she is requested to actively and materially participate in medical research or testing that violates his or her conscience;

(F) A counselor, social worker, psychologist, or other mental health professional to the extent that he or she is requested to actively and materially provide or participate in a type of counseling or referral for a healthcare service that violates his or her conscience;

(G) A student of counseling, psychology, social work, or other mental health studies to the extent that he or she is asked to actively and materially participate in a type of counseling or referral for a healthcare service that violates his or her conscience; or

(H) A nurse, pharmacy technician, surgical technician, allied health professional, student, faculty member, contractor, or employee who is requested to actively and materially participate in a surgery, procedure, or medication administration or dispensing that violates his or her conscience; and

(7) "Participate" means to provide, perform, assist with, facilitate, refer for, counsel for, advise with regard to, admit for the purposes of providing, or take part in any way in providing any healthcare service or any form of healthcare service.

History: Acts 2021, No. 462, § 1.

17-80-504. Right of conscience.

(a) A medical practitioner, healthcare institution, or healthcare payer:

(1) Has the right not to participate in a healthcare service that violates his, her, or its conscience;

(2) Is not required to participate in a healthcare service that violates his, her, or its conscience;

(3) Is not civilly, criminally, or administratively liable for declining to participate in a healthcare service that violates his, her, or its conscience;

(4) Is not civilly, criminally, or administratively liable for the exercise of conscience rights not to participate in a healthcare service by a medical practitioner employed, contracted, or granted admitting privileges by a healthcare institution; and

(5) Shall not be discriminated against in any manner based upon his, her, or its declining to participate in a healthcare service that violates his, her, or its conscience.

(b) Exercise of the right of conscience is limited to conscience-based objections to a particular healthcare service.

(c) A medical practitioner, healthcare institution, or healthcare payer that holds himself, herself, or itself out to the public as religious, states in its governing documents that it has a religious purpose or mission, and has internal operating policies or procedures that implement its religious beliefs has the right to make employment, staffing, contracting, and admitting privilege decisions consistent with his, her, or its religious beliefs.

(d) The right of conscience described in subsection (a) of this section does not include the right to deny emergency medical care as required under 42 U.S.C. § 1395dd, as existing on January 1, 2021, or any other federal law governing emergency medical treatment, as existing on January 1, 2021.

(e)

(1) When a medical practitioner declines to participate in a healthcare service for reasons of conscience, the medical practitioner shall alert the employing healthcare institution at the earliest reasonable time and comply with any applicable protocol developed under this section.

(2)

(A) A healthcare institution may develop a protocol for situations in which a medical practitioner declines to participate in a healthcare service.

(B) The protocol shall provide for prompt patient access to medical records to facilitate transfer, if needed.

(3) This section does not require a healthcare institution or medical practitioner to perform a healthcare service, counsel, or refer a patient regarding a healthcare service that is contrary to the conscience of the medical practitioner or healthcare institution.

(f)

(1) This section does not prohibit an employer or contracting healthcare institution from disclosing the specific healthcare services that an applicant would be required to participate in if he or she is hired for the position or contract.

(2) Upon being informed of the specific healthcare services required of the position or contract, the applicant shall disclose whether he, she, or it has a conscience objection to any of those required duties.

(3) However, a medical practitioner or healthcare institution shall be able to decline to participate in a healthcare service that violates his, her, or its conscience if the employer or contracting healthcare institution, after employment, adds healthcare services to a medical practitioner's or healthcare institution's

duties that would require the medical practitioner or healthcare institution to provide services that violate his, her, or its conscience.

(g)

(1) A healthcare payer shall file its conscience policies annually with the State Insurance Department by including a comprehensive list by billing code of any and all products, services, and procedures that the healthcare payer shall not pay or make payment for reasons of conscience.

(2) The annual filing described in subdivision (g)(1) of this section shall:

(A) Be provided annually to each beneficiary of the healthcare payer and on the website of the healthcare payer; and

(B) Not be required for any year in which the healthcare payer will not exercise its conscience rights under this subchapter.

(h) A healthcare payer shall not use a conscience objection to refuse or reduce payments to a healthcare provider, healthcare institution, or beneficiary for any product, service, or procedure that is not included in the annual filing required under subdivision (g)(1) of this section.

(i) A healthcare payer shall not compel by undue influence, fraud, or duress a healthcare provider, healthcare institution, or beneficiary to accept a contract or contract amendment that violates the conscience of the healthcare provider, healthcare institution, or beneficiary.

(j) The department may issue rules and take any other action necessary or appropriate to enforce subsections (g)-(i) of this section.

History: Acts 2021, No. 462, § 1.

17-80-505. Civil remedies.

(a)

(1) A civil action for damages or injunctive relief, or both, may be brought by a medical practitioner, healthcare institution, or healthcare payer for a violation of this subchapter.

(2) A claim that the violation of this subchapter was necessary to prevent an additional burden or expense on another medical practitioner, healthcare institution, healthcare payer, or individual, including without limitation a patient, is not an affirmative defense.

(b)

(1)

(A) Upon a finding of a violation of this subchapter, the aggrieved party shall be entitled to recover three (3) times the amount of any damages incurred, including without limitation damages related to:

(i) The cost of the civil action; and

(ii) Reasonable attorney's fees.

(B) The total amount of damages shall not be less than five thousand dollars ($5,000) for each violation in addition to the costs of the civil action and reasonable attorney's fees.

(2) Damages shall be cumulative and are not exclusive of other remedies that may be afforded under state or federal law.

(c) A court may award injunctive relief, including without limitation ordering the reinstatement of a medical practitioner to his or her prior employment position or board certification or relicensure of a healthcare institution or healthcare payer.

History: Acts 2021, No. 462, § 1.

17-80-506. Applicability.

This subchapter is supplemental to existing protections of the right of conscience within the Arkansas Code and does not affect the existing laws within the state concerning protection of the right of conscience.

History: Acts 2021, No. 462, § 1.

ARKANSAS HEALTHCARE DECISIONS ACT

20-6-101. Title.

This subchapter shall be known and may be cited as the “Arkansas Healthcare Decisions Act”.

History Acts 2013, No. 1264, § 1.

20-6-102. Definitions.

As used in this subchapter:

(1) "Advance directive" means an individual instruction or a written statement that anticipates and directs the provision of health care for an individual, including without limitation a living will or a durable power of attorney for health care;

(2) "Agent" means an individual designated in an advance directive to make a healthcare decision for the individual granting the power;

(3) "Capacity" means an individual's ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a healthcare decision;

(4)

(A) "Durable power of attorney for health care" means a written advance directive that identifies an agent who is authorized to make healthcare decisions on behalf of the principal.

(B) "Durable power of attorney for health care" includes without limitation a document appointing a healthcare proxy executed under § 20-17-202;

(5) "Emancipated minor" means a minor who has been emancipated under § 9-27-362;

(6) "Emergency responder" means a paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the scope of his or her proper function or rendering emergency care at the scene of an emergency;

(7) "Guardian" means a judicially appointed guardian or conservator having authority to make a healthcare decision for an individual;

(8) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, treat, or otherwise affect an individual's physical or mental condition, including medical care;

(9) "Healthcare decision" means consent, refusal of consent, or withdrawal of consent to health care;

(10)

(A) "Healthcare institution" means an agency, institution, facility, or place, whether publicly or privately owned or operated, that provides healthcare services, medical treatment, or nursing or rehabilitative care to a person.

(B) "Healthcare institution" includes without limitation:

(i) An ambulatory surgical facility;

(ii) A birthing center;

(iii) A home health agency;

(iv) A hospital;

(v) An intermediate care facility for individuals with intellectual disabilities;

(vi) A mental health center;

(vii) An assisted living facility;

(viii) A nursing home;

(ix) An outpatient diagnostic center;

(x) A residential treatment facility;

(xi) A rehabilitation facility; and

(xii) A hospice;

(11) "Healthcare provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(12) "Individual instruction" means an individual's direction concerning a healthcare decision for the individual;

(13)

(A) "Living will" means a written advance directive describing the principal's individual instructions for health care to be provided or withheld if the principal subsequently lacks decision-making capacity.

(B) "Living will" includes without limitation a declaration executed under § 20-17-202;

(14) "Medical care" means the diagnosis, cure, mitigation, treatment, or prevention of disease for the purpose of affecting any structure or function of the body;

(15) "Person" means an individual, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, instrumentality, or any other legal or commercial entity;

(16) "Person authorized to consent on the principal's behalf" means:

(A) A person authorized by law to consent on behalf of the principal when the principal is incapable of making an informed decision; or

(B) In the case of a minor child, the parent or parents having custody of the child, the child's legal guardian, or another person as otherwise provided by law;

(17) "Personally inform" means to communicate by any effective means from the principal directly to a healthcare provider;

(18) "Physician" means an individual authorized to practice medicine or osteopathy in this state;

(19) "Principal" means an individual who grants authority to another individual under this subchapter;

(20) "Qualified emergency medical service personnel" includes without limitation emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders;

(21) "Reasonably available" means readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the principal's healthcare needs, including without limitation availability by telephone;

(22) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States;

(23) "Supervising healthcare provider" means a licensed physician or other authorized independent healthcare provider who has undertaken primary responsibility for an individual's health care;

(24) "Surrogate" means an individual, other than a principal's agent or guardian, authorized under this subchapter to make a healthcare decision for the principal; and

(25) "Treating healthcare provider" means a healthcare provider who is directly or indirectly involved in providing health care to the principal.

History: Acts 2013, No. 1264, § 1; 2017, No. 974, § 1.

20-6-103. Oral or written individual instructions — Advance directive for health care — When effective — Decisions based on best interest assessment — Out-of-state directives — Construction.

(a)

(1)

(A) An adult, married minor, or emancipated minor may make healthcare decisions for himself or herself and give an individual instruction.

(B) A person who is authorized to consent on behalf of a principal may make healthcare decisions for the principal and may give an individual instruction.

(2) The instruction may be oral or written.

(3) The instruction may be limited to take effect only if a specified condition arises.

(b)

(1) An adult, married minor, or emancipated minor may execute a durable power of attorney for health care that authorizes an agent to make a healthcare decision that the principal could make if he or she had capacity.

(2) A durable power of attorney for health care shall be in writing and signed by the principal.

(3) A durable power of attorney for health care remains in effect notwithstanding the principal's latest incapacity and may include a living will or other individual instructions.

(c)

(1) An advance directive, including without limitation a living will or durable power of attorney for health care, shall be either notarized or witnessed by two (2) witnesses.

(2) For the purposes of this subsection, a witness shall be a competent adult who is not the agent, and at least one (1) of the witnesses is not related to the principal by blood, marriage, or adoption and would not be entitled to any portion of the estate of the principal upon the death of the principal under any will or codicil made by the principal existing at the time of execution of the advance directive or by operation of law.

(3) A written advance directive, including without limitation a living will or durable power of attorney for health care, that is witnessed shall contain an attestation clause that attests that the witnesses comply with this subsection.

(4) A written advance directive may include the principal's nomination of a guardian of the principal.

(d) Unless otherwise specified in an advance directive, the authority of an agent becomes effective only upon a determination that the principal lacks capacity and ceases to be effective upon a determination that the principal has recovered capacity.

(e)

(1) If necessary, a licensed physician shall determine whether a principal lacks or has recovered capacity or that another condition exists that affects an individual instruction or the authority of an agent.

(2) In making a determination under subdivision (e)(1) of this section, a licensed physician may consult with other persons as he or she deems appropriate.

(f)

(1) An agent shall make a healthcare decision in accordance with the principal's individual instructions and other wishes to the extent known to the agent.

(2)

(A) In the absence of individual instructions or other information, the agent shall make the decision in accordance with the agent's determination of the principal's best interest.

(B) In determining the principal's best interest, the agent shall consider the principal's personal values to the extent known to the agent.

(g) A healthcare decision made by an agent for a principal is effective without judicial approval.

(h) An advance directive that is executed outside of this state shall be given effect in this state if, at the time of execution, the advance directive complies with either this subchapter or the laws of the state in which the advance directive was executed.

(i) A healthcare provider, healthcare institution, healthcare service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not require the execution or revocation of an advance directive as a condition of the principal's being insured for or receiving health care.

History: Acts 2013, No. 1264, § 1; 2017, No. 974, § 1.

20-6-104. Revocation of designation of agent — Revocation of advance directive — Spouse as agent — Conflicts.

(a) A principal having capacity may revoke all or part of an advance directive, including without limitation a living will, durable power of attorney for health care, or other document, at any time and in any manner that communicates an intent to revoke.

(b) A decree of annulment, divorce, dissolution of marriage, or legal separation revokes a previous designation of a spouse as agent unless otherwise specified in the decree or in an advance directive.

(c) An advance directive that conflicts with an earlier advance directive revokes the earlier advance directive to the extent of the conflict.

(d) A healthcare provider, agent, guardian, or surrogate who is informed of a revocation shall promptly communicate the fact of the revocation to the supervising healthcare provider and any healthcare institution at which the patient is receiving care.

History: Acts 2013, No. 1264, § 1; 2017, No. 974, § 1.

20-6-105. Designation of surrogate.

(a)

(1) An adult, married minor, or emancipated minor may designate an individual to act as surrogate by personally informing the supervising healthcare provider.

(2) The designation may be oral or written.

(b) A surrogate may make a healthcare decision for a principal who is an adult or emancipated minor only if:

(1) The principal has been determined by a licensed physician to lack capacity; and

(2) An agent or guardian has not been appointed or the agent or guardian is not reasonably available.

(c)

(1) The supervising healthcare provider shall identify a surrogate for the principal and document the appointment in the clinical record of the institution or institutions at which the principal is receiving health care if the principal:

(A) Lacks capacity;

(B) Has not appointed an agent or the agent is not reasonably available;

(C) Has not designated a surrogate or the surrogate is not reasonably available; and

(D) Does not have a guardian or the guardian is not reasonably available.

(2)

(A) The principal's surrogate shall be an adult who:

(i) Has exhibited special care and concern for the principal;

(ii) Is familiar with the principal's personal values;

(iii) Is reasonably available; and

(iv) Is willing to serve.

(B) A person who is the subject of a protective order or other court order that directs that person to avoid contact with the principal is not eligible to serve as the principal's surrogate.

(3) In identifying the person best qualified to serve as the surrogate for the principal, the supervising healthcare provider:

(A) Shall consider the proposed surrogate's:

(i) Ability to make decisions either in accordance with the known wishes of the principal or in accordance with the principal's best interests;

(ii) Frequency of contact with the principal before and during the incapacitating illness; and

(iii) Demonstrated care and concern; and

(B) May consider the proposed surrogate's:

(i) Availability to visit the principal during his or her illness; and

(ii) Availability to fully participate in the decision-making process.

(4) When identifying the person best qualified to serve as the surrogate for the principal, the supervising healthcare provider may proceed in order of descending preference for service as a surrogate to:

(A) The principal's spouse, unless legally separated;

(B) The principal's adult child;

(C) The principal's parent;

(D) The principal's adult sibling;

(E) Any other adult relative of the principal; or

(F) Any other adult person who satisfies the requirements of subdivision (c)(2) of this section.

(5) If none of the individuals eligible to act as a surrogate under this subsection are reasonably available and informed consent would typically be sought from the principal, the supervising healthcare provider may make healthcare decisions for the principal after the supervising healthcare provider:

(A) Consults with and obtains the recommendations of an institution's ethics officers or ethics committee; or

(B) Obtains concurrence from a second physician who is:

(i) Not directly involved in the principal's health care;

(ii) Does not serve in a capacity of decision making, influence, or responsibility over the designated physician; and

(iii) Does not serve in a capacity under the authority of the designated physician's decision making, influence, or responsibility.

(6)

(A) In the event of a challenge to the identification of the surrogate or the authority of the surrogate to act, it is a rebuttable presumption that the selection of the surrogate was valid.

(B) A person who challenges the selection of the surrogate has the burden of proving the invalidity of that selection by a preponderance of the evidence.

(d)

(1) Except as provided in subdivision (d)(2) of this section:

(A) Neither the treating healthcare provider nor an employee of the treating healthcare provider, nor an operator of a healthcare institution, nor an employee of an operator of a healthcare institution may be designated as a surrogate; and

(B) A healthcare provider or employee of a healthcare provider may not act as a surrogate if the healthcare provider becomes the principal's treating healthcare provider.

(2) An employee of the treating healthcare provider or an employee of an operator of a healthcare institution may be designated as a surrogate if:

(A) The employee so designated is a relative of the principal by blood, marriage, or adoption; and

(B) The other requirements of this section are satisfied.

(e) A healthcare provider may require an individual claiming the right to act as surrogate for a principal to provide a written declaration under penalty of perjury stating facts and circumstances reasonably sufficient to establish the claimed authority.

History: Acts 2013, No. 1264, § 1; 2017, No. 974, § 1.

20-6-106. Authority of surrogate.

(a)

(1) A surrogate shall make a healthcare decision in accordance with the principal's individual instructions, if any, and other wishes to the extent known to the surrogate.

(2)

(A) Otherwise, the surrogate shall make the decision in accordance with the surrogate's determination of the principal's best interest.

(B) In determining the principal's best interest, the surrogate shall consider the principal's personal values to the extent known to the surrogate or agent.

(b) A surrogate who has not been designated by the principal may make all healthcare decisions for the principal that the principal could make on the principal's own behalf, except that artificial nutrition and hydration may be withheld or withdrawn for a principal upon a decision of the surrogate only if:

(1) The action is authorized by the a living will or other written advance directive; or

(2) The supervising healthcare provider and a second independent physician certify in the principal's current clinical records that:

(A) The provision or continuation of artificial nutrition or hydration is merely prolonging the act of dying; and

(B) The principal is highly unlikely to regain capacity to make medical decisions.

(c) A healthcare decision made by a surrogate or agent for a principal is effective without judicial approval.

(d)

(1) A surrogate may apply for public benefits, such as Medicare and Medicaid, for the principal, subject to any federal restrictions or requirements, and have access to information regarding the principal's income, assets, and banking and financial records to the extent required to make an application.

(2) The authority under subdivision (d)(1) of this section includes without limitation the ability to assist with, submit, and execute applications for benefits, redetermination of eligibility, and other ongoing related communications.

(3) The authority under subdivision (d)(1) of this section shall terminate when revoked by a principal who no longer lacks decisional capacity, upon appointment or availability of a power of attorney or guardian with such authority, or upon the death of the principal.

(4) The authority under subdivision (d)(1) of this section shall be granted to a surrogate from a principal in writing or recorded orally.

(e) A surrogate shall meet all federal requirements to act as an authorized representative, including confidentiality provisions.

History: Acts 2013, No. 1264, § 1; 2017, No. 974, § 1; 2023, No. 49 § 1.

20-6-107. Requirement of guardian to comply with principal's individual instruction.

(a) Absent a court order to the contrary, a guardian shall comply with the principal's individual instructions and shall not revoke the principal's advance directive.

(b) Except as provided in § 28-65-102, a healthcare decision made by a guardian for the principal is effective without judicial approval.

History: Acts 2013, No. 1264, § 1; 2017, No. 974, § 1.

20-6-108. Determination of capacity.

If a licensed physician makes a determination or is informed of a determination that a principal lacks or has recovered capacity or that another condition exists that affects an individual instruction or the authority of an agent, guardian, or surrogate, the licensed physician shall:

(1) Record promptly the determination in the principal's current clinical record; and

(2) Communicate the determination to the principal, if possible, and to any person authorized to make healthcare decisions for the principal.

History: Acts 2013, No. 1264, § 1; 2017, No. 974, § 1.

20-6-109. Compliance by healthcare provider or institution.

(a) Except as provided in subsections (b)-(d) of this section, a healthcare provider or institution providing care to a principal shall comply with:

(1) An individual instruction of the principal and with a reasonable interpretation of that instruction by a person authorized to make healthcare decisions for the principal; and

(2) A healthcare decision for the principal made by a person authorized to make healthcare decisions for the principal to the same extent as if the decision had been made by the principal while having capacity.

(b) A healthcare provider may decline to comply with an individual instruction or healthcare decision for reasons of conscience.

(c) A healthcare institution may decline to comply with an individual instruction or healthcare decision if the instruction or decision:

(1) Is contrary to a policy of the institution that is based on reasons of conscience; and

(2) The policy was timely communicated to the principal or to a person authorized to make healthcare decisions for the principal.

(d) A healthcare provider or institution may decline to comply with an individual instruction or healthcare decision that requires medically inappropriate health care or health care contrary to generally accepted healthcare standards applicable to the healthcare provider or institution.

(e) A healthcare provider or institution that declines to comply with an individual instruction or healthcare decision under subsection (b), subsection (c), or subsection (d) of this section shall:

(1) Inform promptly the principal, if possible, or a person authorized to make healthcare decisions for the principal;

(2) Provide continuing care to the principal until a transfer can be effected or until a determination has been made that a transfer cannot be effected; and

(3)

(A) Unless the principal or person authorized to make healthcare decisions for the principal refuses assistance, immediately make all reasonable efforts to assist in the transfer of the principal to another healthcare provider or healthcare institution that is willing to comply with the instruction or decision.

(B) If a transfer cannot be effected, the healthcare provider or institution shall not be compelled to comply.

History: Acts 2013, No. 1264, § 1.

20-6-110. Disclosure of medical or other healthcare information.

Unless otherwise specified in an advance directive, a person authorized to make healthcare decisions for a principal has the same rights as the principal to request, receive, examine, copy, and consent to the disclosure of medical or any other healthcare information.

History: Acts 2013, No. 1264, § 1.

20-6-111. Liability.

(a) A healthcare provider or healthcare institution acting in good faith and in accordance with generally accepted healthcare standards applicable to the healthcare provider or healthcare institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(1) Complying with a healthcare decision of a person apparently having authority to make a healthcare decision for a principal, including a decision to withhold or withdraw health care;

(2) Declining to comply with a healthcare decision of a person based on a reasonable belief that the person then lacked authority; or

(3) Complying with an advance directive that, to the knowledge of the healthcare provider or healthcare institution, was valid when made and has not been revoked or terminated.

(b) An individual acting as agent or surrogate under this subchapter is not subject to civil or criminal liability or to discipline for unprofessional conduct for healthcare decisions made in good faith.

(c) A person who designates a surrogate under this subchapter is not subject to civil or criminal liability or to discipline for unprofessional conduct for a designation made in good faith.

History: Acts 2013, No. 1264, § 1.

20-6-112. Presumption of capacity.

(a) This subchapter does not affect the right of an individual to make healthcare decisions while having capacity to do so.

(b) An individual is presumed to have capacity to make a healthcare decision, to give or revoke an advance directive, and to designate or disqualify a surrogate.

History: Acts 2013, No. 1264, § 1.

PATIENT RIGHT-TO-KNOW ACT

20-6-201. Title.

This subchapter shall be known and may be cited as the “Patient Right-to-Know Act”.

History: Acts 2017, No. 754, § 1.

20-6-202. Legislative findings and purpose.

(a) The General Assembly finds that:

(1) Patients are entitled to continuity of care with their healthcare providers;

(2) Healthcare providers are prohibited legally and ethically from abandoning a patient before treatment has been concluded;

(3) When a healthcare provider changes practice locations, steps are necessary to ensure that the patient's continuity of care and the legal and ethical obligations of the healthcare provider are fulfilled; and

(4) Patients should be informed about any change in the practice location of their treating healthcare provider and should not be prevented from receiving this type of information.

(b) The purpose of this subchapter is to remove and prevent impediments to patients' maintaining continuity of care and keeping their treatment relationship with their chosen healthcare provider.

History: Acts 2017, No. 754, § 1.

20-6-203. Definitions.

As used in this subchapter:

(1)

(A) "Entity" means any person, organization, or business entity of any type that engages a healthcare provider as an employee, independent contractor, member, or in any other capacity for the practice of medicine as defined in § 17-95-202.

(B) "Entity" does not include insurance companies, health maintenance organizations, or hospital and medical service corporations;

(2)

(A) "Existing patient" means a person who is seen for a medical diagnosis or treatment, or both, by a healthcare provider within the previous twelve (12) months as evidenced by an entry in the medical record of the patient.

(B) The twelve-month period described in subdivision (2)(A) of this section shall be calculated by counting back twelve (12) months from the later of the following dates:

(i) The date that the healthcare provider's relationship with the entity terminates; or

(ii) The date that the healthcare provider gave the entity notice of a new practice location; and

(3) "Healthcare provider" means a person who:

(A) Is licensed by:

(i) The Arkansas State Medical Board;

(ii) The Arkansas State Board of Dental Examiners;

(iii) The Arkansas State Board of Nursing;

(iv) The Arkansas State Board of Chiropractic Examiners;

(v) The Arkansas Board of Podiatric Medicine; or

(vi) The State Board of Optometry; and

(B) Has ultimate responsibility and legal liability for the care of the patient.

History: Acts 2017, No. 754, § 1.

20-6-204. Prohibited conduct.

(a) If a healthcare provider who is relocating his or her practice provides written notice of the healthcare provider's new practice location or contact information via certified mail to the chief executive or administrative officer, the entity or person on behalf of an entity shall not:

(1) Mislead any patient about the new practice location of a healthcare provider, new contact information of a healthcare provider, or the healthcare provider's licensure status; or

(2) Fail to provide a patient with the new practice location of a healthcare provider or new contact information of a healthcare provider when requested.

(b)

(1) When requested by a healthcare provider who is relocating his or her practice in a written notice via certified mail to the chief executive or administrative officer, then an entity with a relationship with the healthcare provider shall within twenty-one (21) calendar days either:

(A) Provide the healthcare provider with a list of the healthcare provider's existing patient names and addresses; or

(B) Send a notice with the new practice location information to all of the healthcare provider's existing patients after providing the healthcare provider a copy of the proposed notice for review and comment.

(2) Within two (2) business days of the request described in subdivision (b)(1) of this section, the entity shall provide the healthcare provider with a list or schedule of upcoming patient appointments with the healthcare provider and the contact information of the patients.

History: Acts 2017, No. 754, § 1; 2023, No. 830, § 2.

20-6-205. Affirmative defense in medical injury cases.

If patient abandonment or other medical injury occurs due to a violation by an entity of this subchapter, the violation shall be an affirmative defense for the physician in a claim brought by the injured patient who shall be entitled to bring a claim against the entity.

History: Acts 2017, No. 754, § 1.

20-6-206. Injunctive relief.

(a) An affected patient or healthcare provider may file an action seeking an injunction of a violation of this subchapter in the circuit court of:

(1) Pulaski County;

(2) The county in which the healthcare provider has his or her practice located;

(3) The county in which the affected patient resides; or

(4) The county in which the entity is located.

(b) Upon the filing of a complaint, the court may issue a temporary injunction on the violation without notice or bond.

(c) If the plaintiff patient or plaintiff healthcare provider establishes that this subchapter has been violated, the court may enter an order permanently enjoining the violation of this subchapter or otherwise enforcing compliance with this subchapter.

(d) A prevailing plaintiff healthcare provider shall be entitled to:

(1) The greater of:

(A) Liquidated damages in the amount of one thousand dollars ($1,000) per day per violation, with a maximum of five hundred thousand dollars ($500,000); or

(B) Actual damages; and

(2) Reasonable attorney's fees and costs.

(e) A prevailing plaintiff patient or plaintiff patients collectively, as named plaintiffs or as a putative or named class, shall be entitled to:

(1) The greater of:

(A) Liquidated damages in the amount of one thousand dollars ($1,000) per day per violation, with a maximum of five hundred thousand dollars ($500,000) for all patients in any actions related to the same violation; or

(B) Actual damages; and

(2) Reasonable attorney's fees and costs.

(f) A violation of this subchapter shall constitute an unfair and deceptive act or practice as defined under the Deceptive Trade Practices Act, § 4-88-101 et seq.

History: Acts 2017, No. 754, § 1; 2023, No. 830, § 3.

20-6-207. Applicability — Construction.

(a) This subchapter:

(1) Applies to any express or implied contract, agreement, or understanding entered into, renewed, modified, or extended on or after March 30, 2017; and

(2) Does not amend or repeal any portion of the Medical Corporation Act, § 4-29-301 et seq., or the Dental Corporation Act, § 4-29-401 et seq.

(b) Any purported waiver of the benefits or requirements of this subchapter is void and against the public policy of this state.

History: Acts 2017, No. 754, § 1.

ARKANSAS PHYSICIAN ORDER FOR LIFE-SUSTAINING TREATMENT ACT

20-6-301. Title.

This subchapter shall be known and may be cited as the "Arkansas Physician Order for Life-Sustaining Treatment Act".

History: Acts 2017, No. 504, § 1.

20-6-302. Legislative findings.

The General Assembly finds that:

(1) It is important for individuals to make healthcare decisions before a medical crisis or emergency occurs;

(2) Healthcare planning is a process, rather than a single decision, that helps individuals think about the type of care that they would want if they become seriously ill or incapacitated, and encourages individuals to talk with their loved ones and physicians regarding their healthcare decisions;

(3) An advance directive gives individuals the ability to put their wishes in writing and to identify another individual who would speak for them if they become unable to speak or make decisions for themselves;

(4) The physician order for life-sustaining treatment form complements an advance directive, if existing, by taking an individual's intentions regarding life-sustaining treatment, such as the intentions set forth in an advance directive, and converting the individual's intentions into a medical order;

(5) The hallmarks of a physician order for life-sustaining treatment form are that a physician order for life-sustaining treatment form:

(A) Is:

(i) Signed;

(ii) Immediately actionable as medical orders on a standardized form;

(iii) A conspicuous, clearly identifiable form; and

(iv) Recognized, adopted, and honored across treatment settings; and

(B) Addresses a range of life-sustaining treatment interventions as well as the patient's preferred intensity of treatment for each intervention; and

(6) The physician order for life-sustaining treatment form is used only for patients with a serious illness or medical frailty when a physician would not be surprised if the patient died within one (1) year.

History: Acts 2017, No. 504, § 1.

20-6-303. Definitions.

As used in this subchapter:

(1)

(A) "Healthcare facility" means an institution, building, agency, or a portion of an institution, building, or agency that is used, operated, or designed to provide healthcare services, medical treatment, nursing care, rehabilitative care, or preventative care to an individual, regardless of whether the institution, building, or agency is a private organization, a public organization, a nonprofit organization, or a for-profit organization.

(B) "Healthcare facility" includes without limitation:

(i) An ambulatory surgical facility;

(ii) A home health agency;

(iii) A hospice;

(iv) A hospital;

(v) An infirmary;

(vi) A long-term care facility;

(vii) An assisted living facility;

(viii) A mental health center;

(ix) An outpatient facility;

(x) A rehabilitation facility; and

(xi) A residential treatment facility;

(2) "Healthcare provider" means an individual who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or in the practice of a profession, including without limitation:

(A) An emergency medical care provider; and

(B) An individual providing home and community-based services;

(3) "Legal representative" means the same as a person authorized to consent on the principal's behalf under § 20-6-102;

(4) "Patient" means an individual who has a critical medical condition or a terminal illness and for whom a physician has determined that a physician order for life-sustaining treatment is consistent with the individual's goals of care;

(5) "Physician" means an individual who is licensed to practice medicine or osteopathic medicine in this state; and

(6) "Physician order for life-sustaining treatment" means a document containing orders by a physician regarding life-sustaining treatment and medical interventions in accordance with the wishes of a patient, or if the wishes of the patient are not reasonably known and cannot with reasonable diligence be ascertained, in accordance with the best interest of the patient.

History: Acts 2017, No. 504, § 1.

20-6-304. Physician order for life-sustaining treatment form.

(a) The State Board of Health shall prescribe a standardized physician order for life-sustaining treatment form that:

(1) Is signed and dated by:

(A) The patient or the legal representative of the patient; and

(B) The physician of the patient;

(2) Includes:

(A) The name and date of birth of the patient; and

(B) The intentions of the patient regarding care, including without limitation the administration of cardiopulmonary resuscitation and the level of medical interventions in the event of a medical emergency; and

(3) Is easily distinguishable to facilitate recognition by healthcare providers and healthcare facilities.

(b) A legal representative may sign a physician order for life-sustaining treatment form on behalf of a patient who lacks capacity to do so, guided by:

(1) The express or implied intentions of the patient; or

(2) If the intentions of the patient are unknown and cannot be reasonably determined, the best interest of the patient given the overall medical condition and prognosis of the patient.

(c)

(1) The physician order for life-sustaining treatment form shall be completed by a physician based upon patient intentions and medical indications.

(2) During the process of completing the physician order for life-sustaining treatment form, the physician may:

(A) Explain:

(i) The physician order for life-sustaining treatment form; and

(ii) The medical interventions and procedures offered by the life-sustaining treatment form; and

(B) Inform the patient or the legal representative of the patient about the difference between an advance directive and the physician order for life-sustaining treatment form.

(d) This subchapter does not authorize a physician to unilaterally create a physician order for life-sustaining treatment on behalf of an individual.

History: Acts 2017, No. 504, § 1.

20-6-305. Compliance.

(a) Except as provided in subsection (c) of this section, a healthcare provider and a healthcare facility shall treat a patient in accordance with the physician order for life-sustaining treatment form.

(b) A physician order for life-sustaining treatment form is valid in a healthcare facility, regardless of whether the physician who signed the life-sustaining treatment form has clinical privileges at the healthcare facility.

(c)

(1) A healthcare provider or healthcare facility is not required to comply with a physician order for life-sustaining treatment form if the physician order for life-sustaining treatment form requires medically

ineffective health care or health care contrary to generally accepted healthcare standards applicable to a healthcare provider or healthcare facility.

(2) A healthcare provider or healthcare facility may decline to comply with an executed physician order for life-sustaining treatment form based upon religious beliefs or moral convictions if the healthcare provider or healthcare facility:

(A) Promptly informs the patient or legal representative of the patient regarding the inability to carry out the physician order for life-sustaining treatment form;

(B) Provides continuing care to the patient until a transfer can be made or a determination has been made that the transfer cannot be made; and

(C)

(i) Makes all reasonable efforts to assist in the prompt transfer of the patient to another healthcare provider or healthcare facility that is willing to comply with the executed physician order for life-sustaining treatment form.

(ii) If a transfer cannot be made, the healthcare provider or healthcare facility shall not be compelled to comply with the physician order for life-sustaining treatment form.

(3) This section does not authorize a healthcare provider or healthcare facility to withhold life-sustaining treatment against the wishes of a patient or a legal representative.

History: Acts 2017, No. 504, § 1.

20-6-306. Review and revision.

(a)

(1) An executed physician order for life-sustaining treatment form may be reviewed periodically by the physician of the patient.

(2) The physician may:

(A) Conduct an evaluation of the patient; and

(B) In consultation with the patient or the legal representative of the patient, issue a new physician order for life-sustaining treatment form consistent with the most current information available about the health status and goals of care of the patient.

(b)

(1) The new physician order for life-sustaining treatment form shall be:

(A) Recorded on a new physician order for life-sustaining treatment form; and

(B) Signed in compliance with § 20-6-304.

(2) Once a new physician order for life-sustaining treatment form has been executed, the previous physician order for life-sustaining treatment form shall be nullified.

(c) A patient with the capacity to make his or her own healthcare decisions may, at any time, request alternative treatment to the treatment that was ordered on the physician order for life-sustaining treatment form.

(d) The legal representative of the patient who does not have the capacity to make his or her own healthcare decisions shall consult with the physician who is the treating physician of the patient before making a request to modify the orders reflected in the physician order for life-sustaining treatment form of the patient.

History: Acts 2017, No. 504, § 1.

20-6-307. Relationship with advance directives.

(a)

(1) A physician order for life-sustaining treatment form is not intended to replace an advance directive.

(2) In executing a physician order for life-sustaining treatment form, a patient, the legal representative of the patient when applicable, and the physician shall make a good-faith effort to locate and incorporate treatment preferences documented in a previously executed advance directive, when appropriate and desired by the patient.

(b) In the event of a conflict with a physician order for life-sustaining treatment form and an advance directive, either:

(1) The document executed most recently by the patient shall take precedence regarding the medical decision or treatment preference at issue; or

(2) If both the advance directive and the physician order for life-sustaining treatment form were executed by the legal representative of the patient, the advance directive shall take precedence regarding the medical decision or treatment preference at issue.

(c) This section does not prohibit or require the execution, revocation, or modification of an advance directive.

History: Acts 2017, No. 504, § 1.

20-6-308. Liability.

A healthcare provider, healthcare facility, or employee or agent of the healthcare provider or healthcare facility is not subject to civil or criminal liability or discipline for unprofessional conduct for:

(1) Complying with a physician order for life-sustaining treatment form based upon a good-faith assumption that the physician order for life-sustaining treatment form was valid when executed and that the physician order for life-sustaining treatment form was not revoked or terminated;

(2) Failing to comply with a physician order for life-sustaining treatment form based upon a good faith determination that:

(A) The physician order for life-sustaining treatment form was not valid; or

(B) The physician order for life-sustaining treatment form requires medically ineffective health care or health care contrary to generally accepted healthcare standards applicable to the healthcare provider or healthcare facility; or

(3) Declining to comply with an executed physician order for life-sustaining treatment form based upon religious beliefs or moral convictions if the healthcare provider or healthcare facility complies with the requirements of § 20-6-305.

History: Acts 2017, No. 504, § 1.

20-6-309. Voluntary signing.

(a) The signing of a physician order for life-sustaining treatment form by a patient or legal representative of the patient is voluntary.

(b)

(1) A person or entity, including without limitation a healthcare provider, healthcare facility, employer, or health insurance carrier, shall not require an individual to execute a physician order for life-sustaining treatment form as a condition of being insured for, or receiving, healthcare services.

(2) If a healthcare provider or healthcare facility complies with subdivision (b)(1) of this section, the healthcare provider or healthcare facility may have a policy to offer a physician order for life-sustaining treatment form to appropriate individuals as part of a conversation about:

(A) Goals of care;

(B) Personal values and preferences;

(C) Benefits of various treatment options; and

(D) Avoidance of unwanted burden.

(c) This subchapter does not:

(1) Create a presumption concerning the intention of an individual who has not executed a physician order for life-sustaining treatment form with respect to the use, withholding, or withdrawal of life-sustaining procedures in the event of a terminal condition; or

(2) Affect the right of an individual to make decisions regarding the use of life-sustaining procedures as long as the individual has the capacity to make a decision.

History: Acts 2017, No. 504, § 1.

20-6-310. Criminal penalty.

(a) It is unlawful for a person to knowingly:

(1) Conceal, cancel, deface, obliterate, or damage a physician order for life-sustaining treatment form without the consent of the patient or the legal representative of the patient;

(2)

(A) Cause an individual to execute a physician order for life-sustaining treatment form by undue influence, fraud, or duress.

(B) As used in this section, "undue influence" includes without limitation:

(i) Charging a different rate or fee for insurance coverage or healthcare services based upon whether the individual consents to a physician order for life-sustaining treatment form or has executed a physician order for life-sustaining treatment form;

(ii) Requiring a healthcare provider to have an internal policy to offer a physician order for life-sustaining treatment form to any individual;

(iii) Providing any financial incentive, payment, discount, or rating incentive for having an internal policy or procedure relating to the completion of a physician order for life-sustaining treatment form as applied to a healthcare provider or healthcare facility; or

(iv) Imposing a rating or reimbursement penalty if a healthcare provider or healthcare facility fails to achieve a target for physician order for life-sustaining treatment form completions; or

(3) Falsify or forge a physician order for life-sustaining treatment form of another person that results in a direct change of health care provided to the patient.

(b) A person who violates this section is guilty of a Class D felony.

(c) This section does not prevent payment to a healthcare provider or healthcare facility for consultation with or counseling of a patient concerning a physician order for life-sustaining treatment form or for offering advance directive healthcare planning.

History: Acts 2017, No. 504, § 1.

20-6-311. Applicability — Death — Life insurance.

(a) A death that results from compliance with a physician order for life-sustaining treatment form does not constitute a suicide, homicide, or abuse, for any reason.

(b)

(1) The execution of a physician order for life-sustaining treatment form does not affect the sale, procurement, or issuance of a life insurance policy or annuity policy.

(2) A life insurance policy or annuity policy shall not be impaired or invalidated if emergency care or life-sustaining treatment is withheld from an insured individual who has executed a physician order for life-sustaining treatment form.

(c) This subchapter does not:

(1) Condone, authorize, or approve mercy killing, euthanasia, or physician-assisted suicide; or

(2) Permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

History: Acts 2017, No. 504, § 1.

20-6-312. Copy of physician order for life-sustaining treatment form.

A copy of an executed physician order for life-sustaining treatment form has the same effect as the original physician order for life-sustaining treatment form.

History: Acts 2017, No. 504, § 1.

NO PATIENT LEFT ALONE

20-6-401. Title.

This subchapter shall be known and may be cited as the "No Patient Left Alone Act".

History: Acts 2021, No. 311, § 1.

20-6-402. Legislative findings.

The General Assembly finds that:

(1) The coronavirus 2019 (COVID-19) pandemic has caused great uncertainty and anxiety across the state and has significantly affected the medical community, including hospitals;

(2) Healthcare facilities have made many efforts to maintain a safe environment for patients and employees and have worked to minimize, to the extent possible, the risk of spread of coronavirus 2019 (COVID-19);

(3) There have been unintended consequences of these preventative measures for patients who have not been diagnosed with coronavirus 2019 (COVID-19);

(4) Across the state, patients who have not been diagnosed with coronavirus 2019 (COVID-19) have been prohibited from having any visitors;

(5) As a result, many patients who were not diagnosed with coronavirus 2019 (COVID-19) have been required to be alone during their treatment for serious conditions, traumas, illnesses, and routine and emergency surgeries;

(6) Some of these patients have been required to be alone for the entire course of their treatment and in some cases have died alone;

(7) Many families have been unable to be physically present with their loved ones who are being treated in a healthcare facility and have been limited to electronic video communications, if any, with their loved ones; and

(8) It is in the interest of the state and its citizens that a patient be allowed at least one (1) support person who is permitted to be physically present with the patient on a daily basis at reasonable times throughout his or her hospitalization, visit to the office of a healthcare professional, or institutionalization.

History: Acts 2021, No. 311, § 1.

20-6-403. Definitions.

As used in this subchapter:

(1)

(A) "Compassionate care visitation" means a visit with a friend or family member that is necessary to meet the physical or mental needs of a resident when a resident is exhibiting signs of physical or mental distress, including without limitation:

(i) End-of-life situations;

(ii) Adjustment support after moving to a new facility or environment;

(iii) Emotional support after the loss of a friend or family member;

(iv) Physical support after eating or drinking issues, including weight loss or dehydration; or

(v) Social support after frequent crying, distress, or depression.

(B) "Compassionate care visitation" includes without limitation:

(i) Clergy members;

(ii) Lay persons offering religious or spiritual support;

(iii) Other persons requested by the resident for the purpose of a compassionate care visit; and

(iv) A person providing a service requested by the resident such as a hair dresser or barber;

(2) "Healthcare facility" means a hospital, an office of a healthcare professional, a long-term care facility, or a hospice facility;

(3) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(4) "Long-term care facility" means:

(A) A nursing home;

(B) A residential care facility;

(C) A post-acute head injury retraining and residential facility;

(D) An intermediate care facility for individuals with developmental disabilities;

(E) An assisted living facility; or

(F) A facility that provides long-term medical or personal care;

(5) "Other individuals given access" means persons other than patients and residents of a healthcare facility;

(6) "Patient with a disability" means a patient who needs assistance to effectively communicate with hospital staff, make healthcare decisions, or engage in activities of daily living due to a disability such as:

(A) A physical, intellectual, behavioral, or cognitive disability;

(B) Deafness, being hard of hearing, or other communication barriers;

(C) Blindness;

(D) Autism spectrum disorder; or

(E) Dementia; and

(7) "Support person" means an individual other than a spouse or legal guardian who is designated by the patient to advocate or provide support for the patient.

History: Acts 2021, No. 311, § 1.

20-6-404. Visitation and support for patient with disability.

(a) Upon the request of a patient with a disability, a hospital, office of a healthcare professional, or hospice facility licensed in this state shall allow a patient with a disability to designate at least three (3) support persons and shall allow at least one (1) support person to be present with the patient with a disability at all times in the

emergency department and during the stay of a patient with a disability in the hospital, office of a healthcare professional, or hospice facility if necessary to facilitate the care of the patient with a disability, including without limitation when the patient with a disability:

(1) Has a cognitive or mental health disability that affects the ability of a patient with a disability to make medical decisions or understand medical advice;

(2) Needs assistance with activities of daily living and the staff are unable to provide or are less effective at providing the assistance;

(3) Is deaf, hard of hearing, or has other communication barriers and requires the assistance of a support person to ensure effective communication with staff;

(4) Has behavioral health needs that the support person can address more effectively than the staff; or

(5) Is making a decision to consent to treatment or refuse treatment.

(b) A healthcare professional or healthcare facility shall not discriminate against a patient with a disability by requiring the patient with a disability to:

(1) Execute an advance directive or a physician order for life-sustaining treatment as a condition of receiving treatment or visitation; or

(2) Agree to a do-not-resuscitate or similar order as a condition of receiving treatment or visitation.

(c) This section does not affect any obligation of a healthcare professional or healthcare facility to:

(1) Provide patients with effective communication supports or other reasonable accommodations in accordance with federal and state laws; or

(2) Make exceptions to the visitor policy of a healthcare facility as a reasonable accommodation under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., as existing on January 1, 2021.

History: Acts 2021, No. 311, § 1.

20-6-405. Hospital or office of healthcare professional visitation.

(a)

(1) A child has the right to have a parent, legal guardian, or person standing in loco parentis physically present with the child while the child receives care in a hospital or an office of a healthcare professional.

(2) An adult patient has the right to have a spouse, support person, or legal guardian physically present with the adult patient while the adult receives care in a hospital or an office of a healthcare professional.

(3) A person with a right to be physically present under subdivisions (a)(1) and (2) of this section may leave and return to the hospital or office of a healthcare professional that is caring for the patient.

(b) A hospital or an office of a healthcare professional shall not:

(1) Require a patient to waive the rights specified in subdivisions (a)(1) and (2) of this section;

(2) Prevent a parent, legal guardian, or person standing in loco parentis of a child receiving care in a hospital or an office of a healthcare professional from having daily physical access to the child at reasonable times; or

(3) Separate the parent, legal guardian, or person standing in loco parentis of a child receiving care in a hospital or an office of a healthcare professional from the child except in cases of suspected abuse or threats of violence or to prevent disruption to the care of the child.

(c) A hospital or an office of a healthcare professional may restrict access of any person to a patient:

(1) At the request of the patient or a law enforcement agency;

(2) Due to a court order;

(3) To prevent disruption to the care of the patient;

(4)

(A) If the person has signs and symptoms of a transmissible infection.

(B) However, the hospital or office of a healthcare professional shall allow access through telephone, telecommunication means, or other means that ensure the protection of the patient.

(C) The person shall follow respiratory hygiene and cough etiquette as well as other infection prevention and control practices such as appropriate hand hygiene;

(5) If the person is determined to be a danger to the patient or to be contrary to the welfare of the patient; or

(6) According to visitation policies established under § 20-6-411.

History: Acts 2021, No. 311, § 1.

20-6-406. Hospice facility visitation.

A patient who is receiving hospice care or the guardian, spouse, or support person of a patient who is receiving hospice care may designate additional family members and friends who may be physically present with the patient at reasonable times.

History: Acts 2021, No. 311, § 1.

20-6-407. Long-term care facility visitation.

(a)

(1) A long-term care facility shall allow compassionate care visitation as needed by the resident to alleviate physical or mental distress.

(2) Personal contact in person with a resident is permitted during a compassionate care visitation if the long-term care facility protocol is followed.

(3) A long-term care facility shall adopt a protocol for personal contact in person that adheres to appropriate infection prevention guidelines disseminated by the Centers for Disease Control and Prevention or the Centers for Medicare & Medicaid Services.

(b) A long-term care facility shall work with residents, families, caregivers, resident representatives, and medical providers, and may include the ombudsman program under § 20-10-602 to identify the need for compassionate care visitation, using a person-centered approach that takes the residents' requests into account.

(c)

(1) A long-term care facility shall ensure that decisions regarding end-of-life care are made by a resident with capacity or by the representative of a resident without capacity, as provided in the Arkansas Healthcare Decisions Act, § 20-6-101 et seq.

(2) Within the scope of visitation provided by this section, a long-term care facility shall permit a resident making decisions regarding end-of-life care to be accompanied by a family member, guardian, or support person designated by the resident, unless the resident declines or requests to have the discussion outside of the presence of a family member, guardian, or support person.

(d)

(1) Compassionate care visitation shall continue even if the infection rate in the county in which the long-term care facility is located is high.

(2) However, a long-term care facility shall identify one (1) or more ways to allow a compassionate care visitation, including personal contact, that minimize the risk of infection to the resident and other residents in the long-term care facility.

(3)

(A) In a long-term care facility with no new onset of coronavirus 2019 (COVID-19) in the last fourteen (14) days and in counties with coronavirus 2019 (COVID-19) positivity rates that are less than ten percent (10%), a long-term care facility shall accommodate and support indoor visitation for reasons beyond compassionate care visitation.

(B) A long-term care facility may limit:

(i) The number of visitors per resident at one (1) time based on the size of the building and physical space; and

(ii) Movement in the long-term care facility, such as requiring the visitor to go directly to the resident's room or designated visitation area.

(C) Visits for residents who share a room shall not be conducted in a resident's room, unless the health status of the resident prevents leaving the room.

(e) Healthcare workers who are not employees of the long-term care facility but provide direct care to a resident in the long-term care facility, such as hospice workers, emergency medical services personnel, dialysis technicians, laboratory technicians, radiology technicians, and social workers, shall be permitted into the long-term care facility if proper infection control protocols are followed.

(f) A long-term care facility that fails to facilitate compassionate care visitation without adequate justification related to clinical necessity or resident safety may be in violation of 42 C.F.R. § 483.10(f)(4), as it existed on January 1, 2021.

(g) To the extent permitted by state and federal law, the appropriate state agency or licensing board shall investigate and may penalize a long-term care facility's failure to comply with this section.

History: Acts 2021, No. 311, § 1.

20-6-408. Clergy member or lay person offering religious or spiritual support visitation.

(a) A clergy member or lay person offering religious or spiritual support may be physically present with a patient to pray with or offer spiritual support for the patient while the patient receives care in a healthcare facility.

(b) If a healthcare facility has a visitation policy that allows in-person visitation of any kind, the healthcare facility shall allow a clergy member to visit a patient who requests a visit in person or consents to be visited in person for religious purposes by a clergy member, including during a state of emergency.

(c) Notwithstanding any other provision of this chapter, when a patient's death is imminent, the healthcare facility shall allow a clergy member to visit a patient in person for religious purposes if:

(1) The patient requests or consents to be visited by the clergy member; or

(2) The patient's healthcare agent or support person requests that the patient be visited by the clergy member.

(d)

(1) The healthcare facility may require the clergy member to comply with reasonable health and safety precautions, including reasonable health screenings and wearing personal protective equipment, imposed by the healthcare facility in connection with in-person visitation for the prevention of spreading communicable diseases unless the precaution substantially burdens the ability of the clergy member to freely exercise his or her religion.

(2) If the requirements substantially burden the ability of the clergy member, the healthcare facility may require compliance with the precautions only if compliance in that instance furthers a compelling government interest and imposes the least restrictive burden on the clergy member's exercise of religion.

(3) Notwithstanding any other provision in this chapter, a healthcare facility may restrict visits of a clergy member who fails a reasonable health screening measure or tests positive for a communicable disease.

(e)

(1)

(A) The protection afforded by this section is in addition to the protections provided under federal law, state law, and the Arkansas Constitution and the United States Constitution.

(B) This section does not:

(i) Preempt or repeal any state or local law that is equally or more protective of clergy member visitation rights; or

(ii) Narrow the meaning or application of any state or local law protecting clergy member visitation.

(2)

(A) This section applies to all state and local laws and ordinances and the implementation of those laws and ordinances, whether statutory or otherwise and whether adopted before or after August 1, 2023.

(B) State laws enacted after August 1, 2023 are subject to this section unless the law explicitly excludes application by reference to this section.

History: Acts 2021, No. 311, § 1; 2023, No. 716, § 1.

20-6-409. Informational materials.

(a)

(1) Within thirty (30) days of March 10, 2021, the Department of Health and the Department of Human Services shall develop informational materials regarding this subchapter.

(2) The Department of Health and the Department of Human Services shall present informational materials regarding this subchapter to the:

(A) Senate Committee on Public Health, Welfare, and Labor;

(B) House Committee on Public Health, Welfare, and Labor; and

(C) House Committee on Aging, Children and Youth, Legislative and Military Affairs.

(b) A healthcare facility shall make the informational materials regarding this subchapter accessible:

(1) Upon admission or registration; and

(2) On the website of the healthcare facility.

(c) Every sixty (60) days or upon the release of relevant federal guidelines, the Department of Health, with input from the long-term care industry and the hospital industry, shall reevaluate and update the directives where needed to allow for the maximum visitation possible under federal guidelines.

(d) Information and directives produced by this state that provide guidance about visitation shall take into consideration and include the highest amount possible of privacy and dignity for interaction between patients and visitors.

History: Acts 2021, No. 311, § 1.

20-6-410. Complaints.

(a) An individual may file a complaint against a healthcare professional or healthcare facility for failing to comply with this subchapter with the appropriate state agency or licensing board, including the Department of Health and the Department of Human Services.

(b) The appropriate state agency or licensing board shall investigate the complaint.

History: Acts 2021, No. 311, § 1.

20-6-411. Visitation limits or restrictions.

A healthcare facility may establish visitation policies that limit or restrict visitation when:

(1) The presence of visitors would be medically or therapeutically contraindicated;

(2) The presence of visitors would interfere with the care of or rights of any patient;

(3) Visitors are engaging in disruptive, threatening, or violent behavior toward any staff member, patient, or other visitor; or

(4) Visitors are noncompliant with healthcare facility policy.

History: Acts 2021, No. 311, § 1.

PRESCRIPTION DRUG MONITORING PROGRAM ACT

20-7-601. Title.

This subchapter shall be known and may be cited as the "Prescription Drug Monitoring Program Act".

History: Acts 2011, No. 304, § 1.

20-7-602. Purpose.

The purpose of this subchapter is to protect the state health system and the citizens of Arkansas by:

(1) Enhancing patient care by providing prescription monitoring information that will ensure legitimate use of controlled substances in health care, including palliative care, research, and other medical pharmacological uses;

(2) Helping curtail the misuse and abuse of controlled substances;

(3) Assisting in combating illegal trade in and diversion of controlled substances; and

(4) Enabling access to prescription information by practitioners, law enforcement agents, and other authorized individuals and agencies and to make prescription information available to practitioners, law enforcement agents, and other authorized individuals and agencies in other states.

History: Acts 2011, No. 304, § 1.

20-7-603. Definitions.

As used in this subchapter:

(1)

(A) "Arkansas Medicaid prescription drug program" means the prescription drug program that is a portion of the Title XIX Medicaid program for the State of Arkansas.

(B) The Arkansas Medicaid prescription drug program includes any entity contracted with the Arkansas Medicaid prescription drug program and to which the Arkansas Medicaid Program has granted authority;

(2) "Certified law enforcement prescription drug diversion investigator" means a certified law enforcement officer assigned by his or her law enforcement agency to investigate prescription drug diversion and who has completed a certification course in prescription drug diversion approved by the Prescription Drug Monitoring Program Advisory Committee and certified by the Arkansas Commission on Law Enforcement Standards and Training;

(3) "Controlled substance" means a drug, substance, or immediate precursor in Schedules II-V;

(4) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including without limitation the prescribing, administering, packaging, labeling, or compounding necessary to prepare the controlled substance for that delivery;

(5)

(A) "Dispenser" means a practitioner who dispenses.

(B) "Dispenser" does not include:

(i) A licensed hospital pharmacy when it is distributing controlled substances for the purpose of outpatient services, inpatient hospital care, or at the time of discharge from a hospital, except for a pharmacy owned by a hospital that has a retail pharmacy permit when the pharmacy is distributing controlled substances directly to the public;

(ii) A wholesale distributor of Schedules II-V controlled substances; or

(iii) A practitioner or other authorized person who administers a controlled substance;

(6) "Exchangeability" means the ability of the program to electronically share reported information with another state's prescription monitoring program if the information concerns the dispensing of a controlled substance either:

(A) To a patient who resides in the other state; or

(B) Prescribed by a practitioner whose principal place of business is located in the other state;

(7) "Investigation" means an active inquiry that is being conducted with a reasonable, good-faith belief that the inquiry:

(A) Could lead to the filing of administrative, civil, or criminal proceedings; or

(B) Is ongoing and continuing and a reasonable, good-faith anticipation exists for securing an arrest or prosecution in the foreseeable future;

(8) "Opioid" means a drug or medication that relieves pain, including without limitation:

(A) Hydrocodone;

(B) Oxycodone;

(C) Morphine;

(D) Codeine;

(E) Heroin; and

(F) Fentanyl;

(9) "Patient" means the person or animal who is the ultimate user of a controlled substance for whom a lawful prescription is issued and for whom a controlled substance is lawfully dispensed;

(10) "Practitioner" means:

(A) A physician, dentist, veterinarian, advanced practice nurse, physician assistant, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted to prescribe, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state; and

(B) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state;

(11) "Prescribe" means to issue a direction or authorization, by prescription, permitting a patient lawfully to obtain a controlled substance;

(12) "Prescriber" means a practitioner or other authorized person who prescribes a Schedule II, III, IV, or V controlled substance;

(13) "Prescription" means a controlled substance lawfully prescribed and subsequently dispensed;

(14) "Prescription drug monitoring program" means a program that collects, manages, analyzes, and provides information regarding Schedule II, III, IV, and V controlled substances as provided under the Uniform Controlled Substances Act, § 5-64-101 et seq., §§ 5-64-1101 — 5-64-1103, the Food, Drug, and Cosmetic Act, § 20-56-201 et seq., or §§ 20-64-501 — 20-64-513;

(15) "Qualified law enforcement agency" means a law enforcement agency that has a certified law enforcement prescription drug diversion investigator and a chief, sheriff, or law enforcement chief executive officer who has successfully completed a certification course in prescription drug diversion approved by the commission;

(16) "Schedule II" means controlled substances that are placed in Schedule II under § 5-64-205;

(17) "Schedule III" means controlled substances that are placed in Schedule III under § 5-64-207;

(18) "Schedule IV" means controlled substances that are placed in Schedule IV under § 5-64-209;

(19) "Schedule V" means controlled substances that are placed in Schedule V under § 5-64-211; and

(20) "Ultimate user" means a person who lawfully possesses a controlled substance for:
(A) The person's own use;
(B) The use of a member of the person's household; or
(C) Administering to an animal owned by a person or by a member of the person's household.

History: Acts 2011, No. 304, § 1; 2015, No. 901, § 1; 2015, No. 1208, § 2; 2017, No. 46, § 1.

20-7-604. Requirements for Prescription Drug Monitoring Program.

(a) The State Board of Health shall create the Prescription Drug Monitoring Program upon the Department of Health's procuring adequate funding to establish the program.

(b)

(1) Each dispenser shall submit to the department information regarding each controlled substance dispensed.

(2) A dispenser located outside Arkansas and licensed and registered by the Arkansas State Board of Pharmacy shall submit to the department information regarding each controlled substance prescription dispensed to an ultimate user whose address is within Arkansas.

(3) The State Board of Health shall create a controlled substances database for the program.

(c) Each dispenser required to report under subsection (b) of this section shall submit to the department by electronic means information that shall include without limitation:

(1) The dispenser's identification number;
(2) The date the prescription was filled;
(3) The prescription number;
(4) Whether the prescription is new or is a refill;
(5) The National Drug Code for the controlled substance that is dispensed;
(6) The quantity of the controlled substance dispensed;
(7) The number of days' supply dispensed;
(8) The number of refills ordered;
(9)
(A) A patient identifier.
(B) A patient identifier shall not be a Social Security number or a driver's license number;
(10) The patient's name;
(11) The patient's address;
(12) The patient's date of birth;
(13) The patient's gender;
(14) The prescriber's identification number;
(15) The date the prescription was issued by the prescriber; and
(16) The source of the payment for the prescription.

(d)

(1) Except as required in subdivision (d)(2) of this section, practitioners are encouraged to access or check the information in the controlled substance database created under this subchapter before prescribing, dispensing, or administering medications.

(2)
(A) A prescriber shall check the information in the program when prescribing:
(i) An opioid from Schedule II or Schedule III for every time prescribing the medication to a patient; and
(ii) A benzodiazepine medication for the first time prescribing the medication to a patient.
(B) A licensing board that licenses practitioners who have the authority to prescribe shall adopt rules requiring the practitioners to check the information in the program as described in subdivision (d)(2)(A) of this section.
(C) This subdivision (d)(2) does not apply to:
(i) A practitioner administering a controlled substance:
(a) Immediately before or during surgery;
(b) During recovery from a surgery while in a healthcare facility;
(c) In a healthcare facility; or
(d) Necessary to treat the patient in an emergency situation at the scene of an emergency, in a licensed ground ambulance or air ambulance, or in the intensive care unit of a licensed hospital;
(ii) A practitioner prescribing or administering a controlled substance to:

(a) A palliative care or hospice patient; or

(b) A resident in a licensed nursing home facility; or

(iii) Situations in which the program is not accessible due to technological or electrical failure.

(D) The State Board of Health may amend, by rule, the exemptions listed in subdivision (d)(2)(C) of this section upon a recommendation from the Secretary of the Department of Health and a showing that the exemption or lack of exemption is unnecessarily burdensome or has created a hardship.

(3) A licensed oncologist shall check the program when prescribing to a patient on an initial malignant episodic diagnosis and every three (3) months following the diagnosis while continuing treatment.

(e) This subchapter does not prohibit licensing boards from requiring practitioners to access or check the information in the controlled substance database as a part of a review of the practitioner's professional practice.

(f) Each dispenser shall submit the required information in accordance with transmission methods and frequency established by the department.

(g)

(1) The department shall create a process for patients to address errors, inconsistencies, and other matters in their record as maintained under this section, including cases of breach of privacy and security.

(2) The department shall develop algorithms within the controlled substance database that would alert a practitioner if his or her patient is being prescribed opioids by more than three (3) physicians within any thirty-day period, if funding is available.

(h)

(1) The department shall limit access to only those employees whose access is reasonably necessary to carry out this section.

(2) However, a prescriber may delegate access to the controlled substance database to persons under his or her supervision or employment.

(i) A certified law enforcement prescription drug diversion investigator shall provide to the department the following information in order to be granted access to the program:

(1) The identification credentials assigned by the department; and

(2) The case number of the investigation.

(j)

(1) A qualified law enforcement agency shall submit to the department an annual report of the data accessed by all certified law enforcement prescription drug diversion investigators in the qualified law enforcement agency, including without limitation:

(A) Written verification that the inquiries were part of a lawful prescription drug diversion investigation as provided to the department through the case number of the investigation; and

(B) The disposition of the investigation.

(2) The department shall:

(A) Create a verification form for use under subdivision (j)(1) of this section; and

(B) Make the verification form available annually to the qualified law enforcement agency.

(3)

(A) The verification form under subdivision (j)(2) of this section shall be submitted to the department within thirty (30) days of receipt of the form by the qualified law enforcement agency.

(B) Failure to submit a verification form under subdivision (j)(3)(A) of this section shall result in the immediate suspension of access to the database by the qualified law enforcement agency and its certified law enforcement prescription drug diversion investigators until a determination is made by the department to allow continued access.

History: Acts 2011, No. 304, § 1; 2015, No. 901, § 2; 2015, No. 1208, §§ 3, 4; 2017, No. 820, § 1; 2019, No. 910, § 4952.

20-7-611. Unlawful acts and penalties.

(a)

(1) It is unlawful for a dispenser to purposely fail to submit prescription monitoring information as required under this subchapter.

(2) A violation of subdivision (a)(1) of this section is a Class B misdemeanor.

(b)

(1) It is unlawful for a dispenser to purposely submit fraudulent prescription information.

(2) A violation of subdivision (b)(1) of this section is a Class D felony.

(c)

(1) It is unlawful for a person authorized to receive prescription monitoring information to purposely disclose the information in violation of this subchapter.

(2) A violation of subdivision (c)(1) of this section is a Class C felony.

(d)

(1) It is unlawful for a person authorized to receive prescription drug monitoring program information to use such information in a manner or for a purpose in violation of this subchapter.

(2) A violation of subdivision (d)(1) of this section is a Class C felony.

(e)

(1) It is unlawful for a person to knowingly obtain, use, or disclose or attempt to obtain, use, or disclose information by fraud or deceit from the Prescription Drug Monitoring Program or from a person authorized to receive information from the Prescription Drug Monitoring Program under this subchapter.

(2) A violation of subdivision (e)(1) of this section is a Class C felony.

(f) In addition to the criminal penalties provided in this section, a dispenser or practitioner who uses or discloses confidential information received from the Prescription Drug Monitoring Program in a manner or for a purpose in violation of this subchapter may be subject to disciplinary action by the dispenser's or practitioner's licensing board.

(g) In addition to the criminal penalties provided in this section, a law enforcement officer who uses or discloses confidential information received from the Prescription Drug Monitoring Program in a manner or for a purpose in violation of this subchapter may be subject to disciplinary action by the law enforcement officer's agency or department.

(h) This subchapter does not limit a person whose privacy has been compromised unlawfully under this section from bringing a civil action to address the breach of privacy or to recover all damages to which the person may be entitled per violation, including attorney's fees and costs.

(i) A practitioner who purposely fails to access the Prescription Drug Monitoring Program as required by § 20-7-604(d) is subject to disciplinary action by the licensing board of the practitioner.

History: Acts 2011, No. 304, § 1; 2017, No. 820, § 3.

20-7-615. Prescriber with a prescription drug violation.

(a) A prescriber who has been found by his or her licensing board to be in violation of a rule or law involving prescription drugs shall be required by the appropriate licensing board to register with the Prescription Drug Monitoring Program and access patient information before writing a prescription for an opioid.

(b) The licensing board, in its discretion, may remove this requirement after a period of time if the licensing board deems removal of the requirement appropriate.

History: Acts 2015, No. 1208, § 5

ARKANSAS SAVE ADOLESCENTS FROM EXPERIMENTATION (SAFE) ACT

20-9-1501. Definitions.

As used in this subchapter:

(1) "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender;

(2) "Cross-sex hormones" means:

(A) Testosterone or other androgens given to biological females in amounts that are larger or more potent than would normally occur naturally in healthy biological sex females; and

(B) Estrogen given to biological males in amounts that are larger or more potent than would normally occur naturally in healthy biological sex males;

(3) "Gender" means the psychological, behavioral, social, and cultural aspects of being male or female;

(4) "Gender reassignment surgery" means any medical or surgical service that seeks to surgically alter or remove healthy physical or anatomical characteristics or features that are typical for the individual's biological sex, in order to instill or create physiological or anatomical characteristics that resemble a sex different from

the individual's biological sex, including without limitation, genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition;

(5) “Gender transition” means the process in which a person goes from identifying with and living as a gender that corresponds to his or her biological sex to identifying with and living as a gender different from his or her biological sex, and may involve social, legal, or physical changes;

(6)

(A) “Gender transition procedures” means any medical or surgical service, including without limitation physician's services, inpatient and outpatient hospital services, or prescribed drugs related to gender transition that seeks to:

(i) Alter or remove physical or anatomical characteristics or features that are typical for the individual's biological sex; or

(ii) Instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including without limitation medical services that provide puberty-blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features in the opposite biological sex, or genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition.

(B) “Gender transition procedures” do not include:

(i) Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are irresolvably ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

(ii) Services provided when a physician has otherwise diagnosed a disorder of sexual development that the physician has determined through genetic or biochemical testing that the person does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

(iii) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state and federal law or whether or not funding for the gender transition procedure is permissible under this subchapter; or

(iv) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the individual in imminent danger of death or impairment of major bodily function unless surgery is performed;

(7) “Genital gender reassignment surgery” means a medical procedure performed for the purpose of assisting an individual with a gender transition, including without limitation:

(A) Surgical procedures such as penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female patients;

(B) Reconstruction of the fixed part of the urethra with or without a metoidioplasty; or

(C) Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biologically female patients;

(8) “Healthcare professional” means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(9) “Nongenital gender reassignment surgery” means medical procedures performed for the purpose of assisting an individual with a gender transition including without limitation:

(A) Surgical procedures for biologically male patients, such as augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal augmentation, hair reconstruction, or various aesthetic procedures; or

(B) Surgical procedures for biologically female patients, such as subcutaneous mastectomy, voice surgery, liposuction, lipofilling, pectoral implants, or various aesthetic procedures;

(10) "Physician" means a person who is licensed to practice medicine in this state;

(11) "Puberty-blocking drugs" means gonadotropin-releasing hormone analogues or other synthetic drugs used in biological males to stop luteinizing hormone secretion and therefore testosterone secretion, or synthetic drugs used in biological females which stop the production of estrogens and progesterone, when used to delay or suppress pubertal development in children for the purpose of assisting an individual with a gender transition; and

(12) "Public funds" means state, county, or local government monies, in addition to any department, agency, or instrumentality authorized or appropriated under state law or derived from any fund in which such moneys are deposited.

History: Acts 2021, No. 626, § 3.

20-9-1502. Prohibition of gender transition procedures for minors.

(a) A physician or other healthcare professional shall not provide gender transition procedures to any individual under eighteen (18) years of age.

(b) A physician or other healthcare professional shall not refer any individual under eighteen (18) years of age to any healthcare professional for gender transition procedures.

(c) A physician or other healthcare professional is not prohibited from providing any of the following procedures which are not gender transition procedures to an individual under eighteen (18) years of age:

(1) Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are irresolvably ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

(2) Services provided when a physician has otherwise diagnosed a disorder of sexual development that the physician has determined through genetic or biochemical testing that the person does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

(3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state and federal law or whether or not funding for the gender transition procedure is permissible under this subchapter; or

(4) Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the individual in imminent danger of death or impairment of major bodily function unless surgery is performed.

History: Acts 2021, No. 626, § 3.

20-9-1503. Prohibition on use of public funds for gender transition procedures.

(a) Public funds shall not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that provides gender transition procedures to an individual under eighteen (18) years of age.

(b) Healthcare services furnished in the following situations shall not include gender transition procedures to an individual under eighteen (18) years of age:

(1) By or in a healthcare facility owned by the state or a county or local government; or

(2) By a physician or other healthcare professional employed by state or a county or local government.

(c) Any amount paid by an individual or an entity during a taxable year for provision of gender transition procedures or as premiums for healthcare coverage that includes coverage for gender transition procedures is not tax-deductible.

(d) The Arkansas Medicaid Program shall not reimburse or provide coverage for gender transition procedures to an individual under eighteen (18) years of age.

History: Acts 2021, No. 626, § 3.

20-9-1504. Enforcement.

(a) Any referral for or provision of gender transition procedures to an individual under eighteen (18) years of age is unprofessional conduct and is subject to discipline by the appropriate licensing entity or disciplinary review board with competent jurisdiction in this state.

(b) A person may assert an actual or threatened violation of this subchapter as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief.

(c)

(1) A person shall bring a claim for a violation of this subchapter no later than two (2) years after the day the cause of action accrues.

(2) An individual under eighteen (18) years of age may bring an action throughout their minority through a parent or next friend, and may bring an action in their own name upon reaching majority at any time from that point until twenty (20) years after reaching the age of majority.

(d) Notwithstanding any other provision of law, an action under this subchapter may be commenced, and relief may be granted, in a judicial proceeding without regard to whether the person commencing the action has sought or exhausted available administrative remedies.

(e) In any action or proceeding to enforce a provision of this subchapter, a prevailing party who establishes a violation of this subchapter shall recover reasonable attorneys' fees.

(f)

(1) The Attorney General may bring an action to enforce compliance with this subchapter.

(2) This subchapter does not deny, impair, or otherwise affect any right or authority of the Attorney General, the State of Arkansas, or any agency, officer, or employee of the state, acting under any law other than this subchapter, to institute or intervene in any proceeding.

History: Acts 2021, No. 626, § 3.

RIGHT TO TRY ACT

20-15-2101. Title.

This subchapter shall be known and may be cited as the "Right to Try Act".

History: Acts 2015, No. 374, § 1.

20-15-2102. Findings.

It is found and determined by the General Assembly of the State of Arkansas that:

(1) The process of approval for investigational drugs, biological products, and devices in the United States often takes many years;

(2) Patients who have a terminal disease do not have the luxury of waiting until an investigational drug, biological product, or device receives final approval;

(3) The standards of the United States Food and Drug Administration for the use of investigational drugs, biological products, and devices may deny the benefits of potentially life-saving treatments to terminally ill patients;

(4) The State of Arkansas recognizes that patients who have a terminal disease have a fundamental right to attempt to pursue the preservation of their own lives by accessing available investigational drugs, biological products, and devices; and

(5) The use of available investigational drugs, biological products, or devices is a decision that should be made by the patient with a terminal disease in consultation with his or her physician.

History: Acts 2015, No. 374, § 1.

20-15-2103. Definitions.

As used in this subchapter:

(1) "Eligible patient" means a person who meets the requirements of eligibility in § 20-15-2104;

(2) "Investigational drug, biological product, or device" means a drug, biological product, or device that:

(A) Has successfully completed phase I of clinical trials but has not been approved for general use by the United States Food and Drug Administration; and

(B) Remains currently under investigation in a United States Food and Drug Administration clinical trial;

(3) "Physician" means an individual licensed to practice medicine in the State of Arkansas under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.; and

(4) "Terminal illness" means an incurable and irreversible condition that without the administration of life-sustaining treatment will, in the opinion of the patient's physician, result in death within a relatively short time.

History: Acts 2015, No. 374, § 1.

20-15-2104. Eligibility.

In order for a patient to access an investigational drug, biological product, or device under this subchapter, a physician must document in the patient's medical record and chart that the patient:

(1) Has a terminal illness;

(2) Has a determination from a qualified physician that the patient has no comparable or satisfactory treatment options approved by the United States Food and Drug Administration available to treat the terminal illness and that the probable risk to the patient from the investigational drug, biological product, or device is not greater than the probable risk from the terminal illness;

(3) Has been unable to participate in a clinical trial for the terminal illness within one hundred (100) miles of the patient's home address or has not been accepted to the clinical trial within one (1) week of the completion of the clinical trial application process;

(4) Has been given a prescription by a physician for an investigational drug, biological product, or device;

(5)

(A) Has given informed consent in writing for the use of the investigational drug, biological product, or device.

(B) If the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian may provide informed consent on the patient's behalf; and

(6) Has received written documentation from a physician that the patient meets the requirements of this subchapter.

History: Acts 2015, No. 374, § 1.

20-15-2105. Availability.

A manufacturer of an investigational drug, biological product, or device may, but is not required to, make its investigational drug, biological product, or device available to eligible patients under this subchapter.

History: Acts 2015, No. 374, § 1.

20-15-2106. Costs — Definition.

(a) A manufacturer of an investigational drug, biological product, or device may:

(1) Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation; or

(2)

(A) Require an eligible patient to pay the costs associated with the manufacture of the investigational drug, biological product, or device.

(B) As used in this section, "costs associated with the manufacture of the investigational drug, biological product, or device" means the actual out-of-pocket costs incurred in providing the investigational drug, biological product, or device to the patient in the specific case.

(b) If a patient dies while being treated by an investigational drug, biological product, or device, the patient's heirs are not liable for any outstanding debt to the manufacturer related to the investigational drug, biological product, or device.

History: Acts 2015, No. 374, § 1.

20-15-2107. Insurance coverage.

An insurance company:

(1) May, but is not required to, provide coverage for an investigational drug, biological product, or device; and

(2) Shall not deny coverage for an item or service that is otherwise covered by an insurance contract between the eligible person and an insurance company.

History: Acts 2015, No. 374, § 1.

20-15-2108. Prohibited sanctions.

The recommendation, prescription, treatment, or participation in the treatment of a terminal illness with an investigational drug, biological product, or device shall not permit:

(1) A licensing board to revoke a license, fail to renew a license, or take any other action against a physician's license;

(2) A state agency or licensing board to revoke a license, fail to renew a license, or take any other action against:

(A) A medical professional licensed under state law; or

(B) A hospital licensed under § 20-9-213; or

(3) An action against a hospital's Medicare certification.

History: Acts 2015, No. 374, § 1.

20-15-2109. Remedy.

The counseling, advice, or recommendation by a medical professional who is licensed under state law is not a violation of this subchapter.

History: Acts 2015, No. 374, § 1.

20-15-2110. Immunity.

(a) Except in the case of gross negligence or willful misconduct, a person or entity that manufacturers, imports, distributes, prescribes, dispenses, administers, or is otherwise involved in the care of an eligible patient using an investigational drug, biological product, or device is immune from civil liability for any loss, damage, or injury arising out of, relating to, or resulting from the investigational drug, biological product, or device so long as the person or entity is substantially complying in good faith with this subchapter.

(b) This subchapter does not require a medical professional who is licensed under the laws of this state to counsel, advise, prescribe, dispense, administer, or otherwise be involved in the care of an eligible patient using an investigational drug, biological product, or device.

(c) This subchapter does not require a hospital licensed under § 20-9-213 to provide any service related to an investigational drug, biological product, or device.

History: Acts 2015, No. 374, § 1.

20-15-2111. Medicaid coverage.

This subchapter does not require the Department of Human Services or the Arkansas Medicaid Program to provide additional coverage for an investigational drug, biological product, or device.

History: Acts 2015, No. 374, § 1.

ABORTION

20-16-601. Refusal to perform, participate, consent, or submit.

(a) No person shall be required to perform or participate in medical procedures which result in the termination of pregnancy. The refusal of any person to perform or participate in these medical procedures shall not be a basis for civil liability to any person nor a basis for any disciplinary or any other recriminatory action against him or her.

(b) No hospital, hospital director, or governing board shall be required to permit the termination of human pregnancies within its institution, and the refusal to permit the procedures shall not be grounds for civil liability to any person nor a basis for any disciplinary or other recriminatory action against it by the state or any person.

(c) The refusal of any person to submit to an abortion or to give consent for an abortion shall not be grounds for loss of any privileges or immunities to which the person would otherwise be entitled, nor shall submission to an abortion or the granting of consent for an abortion be a condition precedent to the receipt of any public benefits.

History: Acts 1969, No. 61, § 8; A.S.A. 1947, § 41-2560.

20-16-602. Right-to-Know-and-See Act — Right to view ultrasound image before abortion — Definitions.

(a) This section shall be known and may be cited as the "Right-to-Know-and-See Act".

(b) As used in this section:

(1)

(A) "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the unborn child.

(B) An act under subdivision (b)(1)(A) of this section is not an abortion if the act is performed with the intent to:

(i) Save the life or preserve the health of the unborn child or the pregnant woman;

(ii) Remove a dead unborn child caused by spontaneous abortion; or

(iii) Remove an ectopic pregnancy;

(2) "Attempt to perform or induce an abortion" means an act or an omission of a statutorily required act that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance or induction of an abortion in this state in violation of this section;

(3)

(A) "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates the abortion of her pregnancy to avert:

(i) The death of the pregnant woman; or

(ii) Serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

(B) "Medical emergency" does not include a condition based on a claim or diagnosis that a pregnant woman will engage in conduct that she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function;

(4) "Qualified technician" means:

(A) A registered diagnostic medical sonographer who is certified in obstetrics and gynecology by the American Registry for Diagnostic Medical Sonography; or

(B) A certified nurse midwife or advanced practice registered nurse with certification in obstetrical ultrasonography;

(5) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved; and

(6) "Unborn child" means the offspring of human beings from conception until birth.

(c)

(1) An abortion provider who knowingly performs or refers for an abortion shall comply with the requirements of this section.

(2) Before a pregnant woman gives informed consent to an abortion or is referred for or administered any anesthesia or medication in preparation of an abortion, the physician or qualified technician shall:

(A) Perform an obstetric ultrasound on the pregnant woman using a method that the physician and the pregnant woman agree is best under the circumstances;

(B)

(i) Provide a simultaneous verbal explanation of what the ultrasound is depicting that includes the presence and location of the unborn child within the uterus and the number of unborn children depicted.

(ii) If the ultrasound image indicates that the unborn child has died, the physician or qualified technician shall inform the pregnant woman of that fact;

(C) Display the ultrasound images so that the pregnant woman may view them and document in the pregnant woman's medical record that the ultrasound images were displayed to the pregnant woman;

(D) Provide a medical description of the ultrasound images, including the dimensions of the unborn child and the presence of external members and internal organs if present and viewable; and

(E) Retain the ultrasound image with the date that the ultrasound occurred in the pregnant woman's medical record.

(d)

(1) The Department of Health shall quarterly inspect the records to ensure compliance with this section.

(2) The department shall:

(A) Fine an abortion facility:

(i) One thousand five hundred dollars ($1,500) for the first violation in a thirty-six-month period;

(ii) Three thousand dollars ($3,000) for the second violation in a thirty-six-month period; and

(iii) Five thousand dollars ($5,000) for the third violation in a thirty-six-month period; and

(B) Suspend the license of an abortion facility for six (6) months for the fourth violation in a thirty-six-month period.

(3) Upon notification from the department of a violation by a physician, the Arkansas State Medical Board shall:

(A) Fine a physician:

(i) One thousand five hundred dollars ($1,500) for the first violation in a thirty-six-month period;

(ii) Three thousand dollars ($3,000) for the second violation in a thirty-six-month period; and

(iii) Five thousand dollars ($5,000) for the third violation in a thirty-six-month period; and

(B) Suspend the license of a physician for six (6) months for the fourth violation in a thirty-six-month period.

(e)

(1) This section does not:

(A) Prevent a pregnant woman from averting her eyes or looking away from the ultrasound images required to be provided to and reviewed by the pregnant woman; or

(B)

(i) Apply in the case of a medical emergency.

(ii) Upon a determination by the physician that a medical emergency exists with respect to the pregnant woman, the physician shall certify the specific medical conditions that constitute the medical emergency.

(iii) A physician or abortion provider that willfully falsifies a certification under subdivision (e)(1)(B)(ii) of this section is subject to penalties under this section.

(2) A physician or pregnant woman is not subject to a penalty if the pregnant woman declines to look at the presented ultrasound images.

History: Acts 2003, No. 1189, §§ 1, 2; 2021, No. 498, § 1; 2023, No. 559, § 1.

20-16-603. Drug-induced abortions — Procedures — Penalties — Causes of action — Definitions.

(a) As used in this section:

(1) "Abortion" means the use or prescription of an instrument, medicine, drug, or another substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died in utero as the result of natural causes, accidental trauma, or a criminal assault on the pregnant woman or her unborn child, and that causes the premature termination of the pregnancy;

(2) "Attempt to perform or induce an abortion" means an act or an omission of a statutorily required act that, under the circumstances as the physician believes them to be, constitutes a substantial step toward the performance or induction of an abortion in violation of this section;

(3) "Mifepristone" means the specific abortion-inducing drug regimen known as RU-486; and

(4) "Physician" means a natural person licensed to practice medicine in the State of Arkansas under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

(b)

(1) When mifepristone or another drug or chemical regimen is used to induce an abortion, the initial administration of the drug or chemical shall occur in the same room and in the physical presence of the physician who prescribed, dispensed, or otherwise provided the drug or chemical to the patient.

(2) The physician who induces the abortion, or a person acting on behalf of the physician who induces the abortion, shall make all reasonable efforts to ensure that the patient returns twelve (12) to eighteen (18) days after the administration or use of mifepristone or another drug or chemical for a follow-up visit so that the physician can confirm that the pregnancy has been terminated and can assess the patient's medical condition.

(3) A brief description of the efforts made to comply with this section, including the date, time, and identification by name of the person making the efforts, shall be included in the patient's medical record.

(c) This section does not affect telemedicine practice that does not involve the use of mifepristone or another drug or chemical to induce an abortion.

(d)

(1) If the Arkansas State Medical Board finds that a physician licensed by the board has violated the rules of professional conduct by performing an abortion in violation of this subchapter, the board shall revoke the physician's license.

(2) A penalty shall not be assessed against the woman upon whom the abortion is performed or attempted to be performed.

(e)

(1)

(A) A woman who receives an abortion, the father of the unborn child who was the subject of the abortion if the father was married to the woman who received the abortion at the time the abortion was performed, or a maternal grandparent of the unborn child may maintain an action against the person who performed the abortion in violation of this section for actual and punitive damages.

(B) A woman who attempts to receive an abortion in violation of this section may maintain an action against the person who attempted to perform the abortion for actual and punitive damages.

(2)

(A) Upon petition by any citizen in the county in which an alleged violation of this section occurred or in which the defendant resides, a court may enjoin a healthcare professional who has knowingly or recklessly violated this section.

(B) An injunction under subdivision (e)(2)(A) of this section shall prevent the abortion provider from performing further abortions in violation of this section.

(f)

(1) If a judgment is rendered in favor of the plaintiff who prevails in an action under subsection (e) of this section, the court shall award reasonable attorney's fees and costs in favor of the plaintiff against the defendant.

(2) If a judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall order the plaintiff to pay reasonable attorney's fees to the defendant.

(g) A pregnant woman who obtains or possesses mifepristone or another drug or chemical used for the purpose of inducing an abortion to terminate her pregnancy shall not be subject to an action under subsection (e) of this section.

(h)

(1) In a civil proceeding or action brought under this section, the court shall determine if the anonymity of a woman who receives or attempts to receive an abortion shall be preserved from public disclosure without her consent.

(2)

(A) Upon determining that the woman's anonymity shall be preserved, the court shall issue an order to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure.

(B) An order under subdivision (h)(2)(A) of this section shall be accompanied by specific written findings explaining:

(i) Why the anonymity of the woman should be preserved from public disclosure;

(ii) Why the order is essential to that end;

(iii) How the order is narrowly tailored to serve that interest; and

(iv) Why no reasonable, less restrictive alternative exists.

(C) In the absence of written consent of the woman who receives or attempts to receive an abortion, anyone other than a public official who brings an action under subsection (e) of this section shall bring the action under a pseudonym.

(D) This subsection does not conceal the identity of the plaintiff or of a witness from the defendant.

(i) This section does not create or recognize a right to abortion.

History: Acts 2015, No. 139, § 1; 2015, No. 1014, § 1.

20-16-604. Born-alive infant protection — Cause of action — Definitions.

(a) As used in this section:

(1)

(A) "Abortion" means the act of using or prescribing any instrument, medicine, drug, or other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child.

(B) A use, prescription, or means under this subdivision (a)(1) is not an abortion if the use, prescription, or means is performed with the intent to:

(i) Save the life or preserve the health of the unborn child;

(ii) Remove a dead unborn child caused by spontaneous abortion; or

(iii) Remove an ectopic pregnancy;

(2) "Infant" means a child who has been completely expulsed or extracted from the mother, regardless of the stage of gestational development, until thirty (30) days after the birth; and

(3) "Infant who is born alive" means the complete expulsion or extraction of an infant from a mother, regardless of the state of gestational development, who shows any evidence of life, including without limitation:

(A) Breathing;

(B) Heartbeat;

(C) Umbilical cord pulsation; or

(D) Definite movement of voluntary muscles.

(b) A physician, other healthcare professional, or other person shall not deny or deprive an infant of nourishment with the intent to cause or allow the death of the infant for any reason, including without limitation:

(1) The infant was born with a physical, intellectual, or developmental disability;

(2) The infant was not wanted by the parent or guardian; or

(3) The infant was born alive by natural or artificial means.

(c) A physician, other healthcare professional, or other person shall not deprive an infant of medically appropriate and reasonable medical care and treatment or surgical care.

(d) This section does not prevent an infant's parent or legal guardian from refusing to give consent to medical treatment or surgical care that is not medically necessary or reasonable, including without limitation, care or treatment that:

(1) Is not necessary to save the life of the infant;

(2) Has a potential risk to the life or health of the infant that outweighs the potential benefit to the infant; or

(3) Is treatment that will do no more than temporarily prolong the act of dying when death is imminent.

(e)

(1) A physician performing an abortion shall take all medically appropriate and reasonable steps to preserve the life and health of an infant who is born alive.

(2) If an abortion performed in a hospital results in a live birth, the attending physician shall:

(A) Provide immediate medical care to the infant;

(B) Inform the mother of the live birth;

(C) Request transfer of the infant to an on-duty resident or emergency care physician who shall provide medically appropriate and reasonable medical care and treatment to the infant; and

(D) Report the abortion resulting in a live birth to the Department of Health.

(3) If an abortion performed in a healthcare facility other than a hospital results in a live birth, the attending physician shall:

(A) Provide immediate medical care to the infant;

(B) Call 911 for an emergency transfer of the infant to the hospital for medically appropriate and reasonable care and treatment for the infant; and

(C) Report the abortion resulting in a live birth to the department.

(4) The department shall report and publish the number of abortions resulting in a live birth annually.

(f) If a physician described in subsection (e) of this section is unable to perform the duties described in subsection (e) of this section because the physician is assisting the woman who received an abortion, the attending physician's assistant, nurse, or other healthcare professional shall assume the duties outlined in subsection (e) of this section.

(g) An infant who is born alive shall be treated as an individual under the laws of this state with the same rights to medically appropriate reasonable care and treatment that an infant born prematurely would have.

(h) The infant who is born alive upon birth immediately shall become a ward of the state if:

(1) Before the abortion, the pregnant woman, or if married, the pregnant woman and her spouse, have stated in writing that they do not wish to keep the infant if the abortion results in a live birth; and

(2) The writing described in subdivision (h)(1) of this section is not retracted before the abortion.

(i)

(1) An infant who is born alive shall not be used for any type of scientific research or other kind of experimentation except as necessary to protect or preserve the life and health of the infant who is born alive.

(2) A violation of subdivision (i)(1) of this section is a Class D felony.

(j) Failure to comply with this section shall provide a basis for:

(1) A civil action for compensatory and punitive damages which may include a medical malpractice action under § 16-114-201 et seq.;

(2) Professional disciplinary action by the appropriate healthcare licensing board for the suspension or revocation of a license for a healthcare professional for at least one (1) year;

(3) Recovery for the parent of the infant or the parent or legal guardian of the pregnant woman, if the pregnant woman is a minor, for the wrongful death of the infant under § 16-62-102; and

(4) Injunction from future acts prohibited by this section.

(k) This section does not:

(1) Create or recognize a right to abortion;

(2) Affect existing federal or state law regarding abortion; or

(3) Alter generally accepted medical standards.

(l) A physician or other person who purposefully or recklessly violates this section is guilty of a Class A misdemeanor.

History: Acts 2017, No. 392, § 2; 2019, No. 801, §§ 2-4.

20-16-605. Reporting requirements for abortion complications — Definitions.

(a) As used in this section:

(1)

(A) "Abortion complication" means any harmful event or adverse outcome with respect to a patient related to an abortion that is performed on the patient and that is diagnosed or treated by a physician or at a healthcare facility.

(B) "Abortion complication" includes without limitation:

(i) Shock;

(ii) Uterine perforation;

(iii) Cervical laceration;

(iv) Hemorrhage;

(v) Aspiration or allergic response;

(vi) Infection;

(vii) Sepsis;

(viii) Death;

(ix) Incomplete abortion;

(x) Damage to the uterus; and

(xi) An infant born alive after an abortion procedure; and

(2) "Healthcare facility" means a hospital, abortion facility, or healthcare facility that provides emergency medical care.

(b) This section applies only to:

(1) A physician who:

(A) Performs at an abortion facility an abortion that results in an abortion complication diagnosed or treated by the physician; or

(B) Diagnoses or treats at an abortion facility an abortion complication that is the result of an abortion performed by another physician at the abortion facility; and

(2) A healthcare facility.

(c)

(1)

(A) A physician described under subdivision (b)(1) of this section shall electronically submit to the Department of Health a report on each abortion complication diagnosed or treated by the physician not later than the end of the third business day after the date on which the abortion complication was diagnosed or treated.

(B) A healthcare facility described under subdivision (b)(2) of this section shall electronically submit to the department a report on each abortion complication diagnosed or treated by the healthcare facility not later than the thirtieth day after the date on which the abortion complication was diagnosed or treated.

(2) The reports described in subdivision (c)(1) of this section shall:

(A) Be submitted in the form and manner prescribed by rule of the department;

(B) Identify the name of the physician submitting the report or the name and type of healthcare facility submitting the report;

(C) Not identify by any means the physician performing the abortion or the patient on whom the abortion was performed;

(D) Include the most specific, accurate, and complete reporting for the highest level of specificity; and

(E) Include the following information, if known, for each abortion complication:

(i) The date of the abortion that caused or may have caused the abortion complication;

(ii) The type of abortion that caused or may have caused the abortion complication;

(iii) The gestational age of the fetus at the time that the abortion was performed;

(iv) The name and type of healthcare facility in which the abortion was performed;

(v) The date the abortion complication was diagnosed or treated;

(vi) The name and type of any healthcare facility other than the reporting healthcare facility in which the abortion complication was diagnosed or treated;

(vii) A description of the abortion complication;

(viii) The patient's year of birth, race, marital status, state of residence, and county of residence;

(ix) The date of the first day of the patient's last menstrual period that occurred before the date of the abortion that caused or may have caused the abortion complication, if known;

(x) The number of previous live births of the patient; and

(xi) The number of previous induced abortions of the patient.

(3) An event associated with a medical procedure performed after a natural miscarriage, spontaneous abortion, or fetal death is not subject to reporting under this section.

(d)

(1) The department shall develop and publish on the website of the department an annual report that aggregates on a statewide basis each abortion complication reported under this section.

(2) The annual report shall not include any duplicative data.

(e)

(1) The information and records held by the department under this section are confidential and shall not be disclosed under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) The information and records shall be released only in the following circumstances:

(A) For statistical purposes, but only if a person, patient, or healthcare facility is not identified;

(B) With the consent of each person, patient, and healthcare facility identified in the information released;

(C) For the purpose of enforcing this section, to medical personnel, appropriate state agencies, county courts, or district courts; or

(D) For the purpose of enforcing state licensing laws, to appropriate state licensing boards.

(f)

(1) A physician or healthcare facility that violates this section is subject to a civil penalty of five hundred dollars ($500) for each violation.

(2) The Attorney General, at the request of the department or appropriate licensing board, may file an action to recover a civil penalty assessed under subdivision (f)(1) of this section and may recover attorney's fees and costs incurred in bringing the civil action.

(3) Each day of a continuing violation shall constitute a separate violation.

(4) A third separate violation of this section shall constitute grounds for:

(A) Revocation or suspension of the physician's or the healthcare facility's license, permit, registration, certificate, or other authority; or

(B) Other disciplinary action against the physician or healthcare facility by the appropriate licensing board.

(5) The department shall notify the Arkansas State Medical Board of any violations of this section by a physician.

History: Acts 2019, No. 620, § 1.

20-16-606. Qualifications to perform an abortion.

(a) A person shall not perform or induce an abortion unless that person is a physician licensed to practice medicine in the State of Arkansas and is board-certified or board-eligible in obstetrics and gynecology.

(b) A violation of this section is a Class D felony and may result in the revocation, suspension, or nonrenewal of the professional license of an abortion facility or physician.

History: Acts 2019, No. 700, § 1.

20-16-607. In custody or guardianship of state.

(a) A state agency shall not:

(1) Consent to or approve the termination of a pregnancy for a pregnant woman in the custody or guardianship of the state; or

(2) Authorize the expenditure of state funds for the purpose of paying for the termination of a pregnancy for a pregnant woman in the custody of the state except to save the life of the pregnant woman, or as required by federal law.

(b) A pregnant woman in the custody or guardianship of the state, her family, or a third-party payer is responsible for all costs, including transportation costs, associated with a medical appointment, or any subsequent healthcare service determined necessary, related to the termination of her pregnancy, except as required by federal law.

(c) A state agency may be involved in a court proceeding related to the consideration by the court of whether to approve the termination of a pregnancy for a pregnant woman in the custody or guardianship of the state.

(d) A state agency under this section shall report annually to the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor the number of any terminations of pregnancies that occurred for women in the custody or guardianship of the state agency.

(e)

(1) A state agency under this section shall promulgate rules necessary to implement this section.

(2)

(A) When adopting the initial rules to implement this section, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(i) On or before January 1, 2020; or

(ii) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

(B) A state agency shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rule for approval before January 1, 2020.

History: Acts 2019, No. 1057, § 1.

20-16-608. Reporting data on abortions to save life of mother.

A physician, healthcare provider, or abortion facility shall report to the Department of Health the number of abortions performed to save the life of the mother.

History: Acts 2021, No. 787, § 2.

GRADUATE REGISTERED PHYSICIAN

17-95-901. Title.

This subchapter shall be known and may be cited as the "Arkansas Graduate Registered Physician Act".

History: Acts 2015, No. 929, § 1.

17-95-902. Definitions.

As used in this subchapter:

(1)

(A) "Graduate registered physician" means an individual who:

(i) Is a resident of Arkansas who has graduated from an accredited allopathic medical school or osteopathic medical school and is not currently enrolled in an accredited graduate medical education training program; or

(ii) Is a citizen of the United States or a legal resident alien who has graduated from an accredited Arkansas allopathic medical school or Arkansas osteopathic medical school and is not currently enrolled in an accredited graduate medical education training program.

(B) The graduate registered physician is a dependent medical practitioner who:

(i) Only provides healthcare services under the supervision of a physician; and

(ii) Works under a physician-drafted protocol approved by the Arkansas State Medical Board, which describes how the graduate registered physician and the physician will work together and practice guidelines required by the supervising physician;

(2) "Medical school" means a school as defined by the board;

(3) "Resident of Arkansas" means a natural person who provides evidence deemed sufficient to the board that the person uses an Arkansas residence address for federal or state tax purposes;

(4) "Supervising physician" means a physician licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., who has agreed to practice in consultation with a graduate registered physician and who is board eligible in his or her specialty; and

(5)

(A) "Supervision" means overseeing the activities of and accepting responsibility for the medical services rendered by a graduate registered physician.

(B) Supervision of each graduate registered physician by a physician or physicians shall be continuous.

History: Acts 2015, No. 929, § 1.

17-95-903. Qualifications for licensure.

(a) Except as otherwise provided in this subchapter, an individual shall be licensed by the Arkansas State Medical Board before the individual may practice as a graduate registered physician.

(b) The board may grant a license as a graduate registered physician to an applicant who:

(1) Submits an application on forms approved by the board;

(2) Pays the appropriate fees as determined by the board;

(3) Has successfully completed Step 1 and Step 2 of the United States Medical Licensing Examination, Comprehensive Osteopathic Medical Licensing Examination, or the equivalent of both steps of a board-approved medical licensing examination within the two-year period immediately preceding application for licensure as a graduate registered physician, but not more than two (2) years after graduation from a medical school, an allopathic medical college, or an osteopathic medical college;

(4) Has not completed an approved postgraduate residency but has successfully completed Step 2 of the United States Medical Licensing Examination or the equivalent of Step 2 from a board-approved medical licensing examination within the two-year period immediately preceding application for licensure as a graduate registered physician;

(5) Has no licensure, certification, or registration under current discipline, revocation, suspension, or probation for cause resulting from the applicant's medical practice, unless the board considers the conditions and agrees to licensure;

(6) Enters into a physician-drafted protocol within six (6) months of initial licensure; and

(7) [Repealed.]

(8) Submits to the board any other information that the board deems necessary to evaluate the applicant's qualifications.

History: Acts 2015, No. 929, § 1; 2019, No. 990, § 101.

17-95-904. Renewal.

(a) Upon notification from the Arkansas State Medical Board, an individual who holds a license as a graduate registered physician in this state shall renew the license by:

(1) Submitting the appropriate fee as determined by the board;
(2) Completing the appropriate renewal forms;
(3) Submitting verification of actual practice under a physician-drafted protocol during the immediately preceding licensure period; and
(4) Meeting other requirements set by the board.

(b) The board shall determine the renewal period.

History: Acts 2015, No. 929, § 1.

17-95-905. Scope of authority.

(a)
(1) A graduate registered physician may provide healthcare services with physician supervision.
(2) The supervising physician shall be identified on all prescriptions and orders.
(3) A graduate registered physician may perform those duties and responsibilities, including the prescribing, ordering, and administering of drugs and medical devices that are delegated by his or her supervising physician.

(b) A graduate registered physician shall be considered the agent of his or her supervising physician in the performance of all practice-related activities, including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

(c) A graduate registered physician may perform healthcare services in a setting authorized by the supervising physician in accordance with any applicable facility policy.

History: Acts 2015, No. 929, § 1.

17-95-906. Prescriptive authority.

(a)
(1) A physician who is supervising a graduate registered physician may delegate prescriptive authority to a graduate registered physician to include prescribing, ordering, and administering Schedules III-V controlled substances as described in the Uniform Controlled Substances Act, § 5-64-101 et seq., and 21 C.F.R. Part 1300, all legend drugs, and all nonschedule prescription medications and medical devices.
(2) All prescriptions and orders issued by a graduate registered physician also shall identify his or her supervising physician.

(b) A graduate registered physician's level of prescriptive authority shall not exceed the authority of the supervising physician.

(c) A graduate registered physician who prescribes controlled substances shall register with the United States Drug Enforcement Administration as part of the United States Drug Enforcement Administration's Mid-Level Practitioner Registry, 21 C.F.R. Part 1300, 58 F.R. 31171-31175, and the Controlled Substances Act, 21 U.S.C. § 801 et seq.

History: Acts 2015, No. 929, § 1.

17-95-907. Supervision.

(a) Supervision of a graduate registered physician shall be continuous and require the physical presence of the supervising physician at the place that the services are rendered.

(b) Each team of physicians and graduate registered physicians has an obligation to ensure that:
(1) The graduate registered physician's scope of practice is identified;
(2) The delegation of a medical task is appropriate to the graduate registered physician's level of competence;
(3) The relationship and access to the supervising physician are defined; and
(4) A process of evaluation of the graduate registered physician's performance is established.

(c) The graduate registered physician and supervising physician may designate back-up physicians who agree to supervise the graduate registered physician during the absence of the supervising physician.

(d) A physician who desires to supervise a graduate registered physician shall:
(1) Be licensed in this state;
(2) Notify the Arkansas State Medical Board of his or her intent to supervise a graduate registered physician;
(3) Submit a statement to the board that he or she will exercise supervision over the graduate registered physician in accordance with rules adopted by the board; and
(4) Limit supervision to no more than two (2) graduate registered physicians per supervising physician.

History: Acts 2015, No. 929, § 1.

17-95-908. Notification of intent to practice.

(a)

(1) Before initiating practice, a graduate registered physician licensed in this state must submit on forms approved by the Arkansas State Medical Board notification of an intent to practice.

(2) The notification shall include:

(A) The name, business address, email address, and telephone number of the supervising physician; and

(B) The name, business address, and telephone number of the graduate registered physician.

(b) A graduate registered physician shall notify the board of any changes or additions in supervising physicians within ten (10) calendar days.

History: Acts 2015, No. 929, § 1.

17-95-909. Exclusions of limitations of employment.

This subchapter does not limit the employment arrangement of a graduate registered physician licensed under this subchapter.

History: Acts 2015, No. 929, § 1; 2019, No. 386, § 52.

17-95-910. Violation.

Following the exercise of due process, the Arkansas State Medical Board may discipline a graduate registered physician who:

(1) Fraudulently or deceptively obtains or attempts to obtain a license;

(2) Fraudulently or deceptively uses a license;

(3) Violates any provision of this subchapter or any rules adopted by the board pertaining to this chapter;

(4) Is convicted of a felony listed under § 17-3-102;

(5) Is a habitual user of intoxicants or drugs to the extent that he or she is unable to safely perform as a graduate registered physician; or

(6) Has been adjudicated as mentally incompetent or has a mental condition that renders him or her unable to safely perform as a graduate registered physician.

History: Acts 2015, No. 929, § 1; 2019, No. 990, § 102.

17-95-911. Disciplinary authority.

Upon finding that a graduate registered physician has committed an offense described in § 17-95-910, the Arkansas State Medical Board may:

(1) Refuse to grant a license;

(2) Administer a public or private reprimand;

(3) Revoke, suspend, limit, or otherwise restrict a license;

(4) Require a graduate registered physician to submit to the care, counseling, or treatment of a physician or physicians designated by the board;

(5) Suspend enforcement of its finding and place the graduate registered physician on probation with right to vacate the probationary order for noncompliance; or

(6) Restore or reissue, at its discretion, a license and impose any disciplinary or corrective measure that may have been imposed previously.

History: Acts 2015, No. 929, § 1.

17-95-912. Title and practice protection.

An individual who is not licensed under this subchapter is guilty of a Class A misdemeanor and is subject to penalties applicable to the unlicensed practice of medicine if he or she:

(1) Holds himself or herself out as a graduate registered physician; or

(2) Uses any combination or abbreviation of the term “graduate registered physician” to indicate or imply that he or she is a graduate registered physician.

History: Acts 2015, No. 929, § 1.

17-95-913. Identification requirements.

A graduate registered physician licensed under this subchapter shall keep his or her license available for inspection at his or her primary place of business, and when engaged in professional activities, a graduate registered physician shall wear a name tag identifying himself or herself as a graduate registered physician, and immediately below the licensure of degree, information in equal size or larger lettering.

History: Acts 2015, No. 929, § 1.

17-95-914. Rulemaking authority.

The Arkansas State Medical Board shall promulgate rules that are reasonable and necessary to implement this subchapter.

History: Acts 2015, No. 929, § 1.

17-95-915. "Good Samaritan" provision.

A graduate registered physician shall be subject to the "Good Samaritan" provisions embodied in § 17-95-101.

History: Acts 2015, No. 929, § 1.

17-95-916. Patient care orders.

(a) Patient care orders generated by a graduate registered physician shall be construed as having the same medical, health, and legal force and effect as if the orders were generated by his or her supervising physician, provided that the supervising physician's name is identified in the patient care order.

(b) The orders shall be complied with and carried out as if the orders had been issued by the graduate registered physician's supervising physician.

History: Acts 2015, No. 929, § 1.

17-95-917. Medical malpractice — Professional and legal liability for actions.

A graduate registered physician shall be covered under the provisions regarding medical malpractice and legal liability as they apply to his or her supervising physician as embodied in §§ 16-114-201 — 16-114-203 and 16-114-205 — 16-114-209.

History: Acts 2015, No. 929, § 1.

SURGICAL TECHNOLOGISTS

17-95-1001. Title.

This subchapter shall be known and may be cited as the "Arkansas Surgical Technologists Act".

History: Acts 2017, No. 390, § 1.

17-95-1002. Definitions.

As used in this subchapter:

(1) "Surgical technologist" means an individual who performs the skills and techniques of surgical technology under the direction and supervision of a licensed practitioner other than in the course of practicing as a licensed healthcare professional; and

(2) "Surgical technology" means surgical patient care that includes without limitation:

(A) Preparing an operating room and a sterile field for surgical procedures by ensuring that surgical equipment is assembled and functioning properly and safely;

(B) Preparing sterile supplies, instruments, and equipment using sterile technique;

(C) Performing tasks in a sterile field, including:

(i) Maintaining asepsis and a sterile operating field;

(ii) Passing supplies, equipment, or instruments according to the needs of the surgical team;

(iii) Sponging or suctioning an operative site;

(iv) Preparing and cutting suture material;

(v) Providing irrigation solutions to the supervising physician and irrigating an operative site;

(vi) Providing drugs within the sterile field for administration by the supervising physician;

(vii) Handling specimens;

(viii) Holding retractors and other instruments;

(ix) Applying electrocautery to clamps on blood vessels;
(x) Connecting drains to a suction apparatus;
(xi) Applying dressings to closed wounds; and
(xii) Performing counts of supplies such as sponges, needles, and instruments with the registered nurse circulator; and

(D) The practice of surgical technology is a separate and distinct healthcare profession that does not include the practice of surgical assisting as performed by physician assistants, surgical assistants, or first assistants.

History: Acts 2017, No. 390, § 1.

17-95-1003. Registration.

The Arkansas State Medical Board shall register as a surgical technologist an applicant who:

(1) Has successfully completed a nationally accredited surgical technology program and holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor or a national organization approved by the Arkansas State Medical Board;

(2) Has successfully completed a surgical technologist training program during the person's service as a member of any branch of the United States Armed Forces; or

(3) Has been employed to practice as a surgical technologist at any time within the six (6) months before July 1, 2017, if the applicant registers with the Arkansas State Medical Board on or before March 31, 2020.

History: Acts 2017, No. 390, § 1; 2019, No. 264, § 1.

17-95-1004. Title protection.

A person shall not use or assume the title "registered surgical technologist" unless the person is registered with the Arkansas State Medical Board.

History: Acts 2017, No. 390, § 1.

17-95-1005. Rules.

The Arkansas State Medical Board may adopt and promulgate rules to implement this subchapter.

History: Acts 2017, No. 390, § 1.

LICENSED GENETIC COUNSELORS

17-95-1101. Title.

This subchapter shall be known and may be cited as the "Arkansas Genetic Counselor Licensure Act".

History Acts 2019, No. 686, § 1.

17-95-1102. Definitions.

As used in this subchapter:

(1) "Genetic counseling" means the process of assisting individuals with understanding and adapting to the medical, psychological, and familial implications of genetic contributions to disease, which includes without limitation:

(A) Interpreting family and medical histories to assess the chance of disease occurrence or recurrence;

(B) Educating an individual or an individual's family about inheritance, testing, management, prevention, resources, and research;

(C) Counseling an individual or an individual's family to promote informed choices and adaption to the risk or condition;

(D) Estimating the likelihood of occurrence or recurrence of any potentially inherited or genetically influenced condition, which may involve:

(i) Obtaining and analyzing a complete health history of the individual and the individual's family;

(ii) Reviewing the pertinent medical records;

(iii) Evaluating the risks from exposure to possible mutagens or teratogens; and

(iv) Discussing genetic testing to assist in the diagnosis of a condition or determine the carrier status of one (1) or more family members;

(E) Assisting the individual, the individual's family, the individual's healthcare provider, or the public to:

(i) Appreciate the medical, psychological, and social implications of a disorder, including the features, variability, usual course, and management options of the disorder;

(ii) Learn how genetic factors contribute to the disorder and affect the chance for recurrence of the condition in other family members;

(iii) Understand available options for coping with, preventing, or reducing the chance of occurrence or recurrence of a condition; and

(iv) Understand genetic tests, including without limitation diagnostic genetic tests, screening tests, or predispositional genetic tests, coordinate testing for inherited disorders, and interpret complex genetic test results; and

(F) Facilitating an individual's or an individual's family's:

(i) Exploration of the perception of risk and burden associated with a genetic disorder;

(ii) Decision-making regarding testing or medical interventions consistent with their beliefs, goals, needs, resources, culture, and ethical or moral views; and

(iii) Adjustment and adaption to the condition or their genetic risk by addressing the need for psychological, social, and medical support;

(2) "Licensed genetic counselor" means a person who is licensed under this subchapter to engage in the practice of genetic counseling; and

(3)

(A) "Supervision" means the ongoing, direct clinical review for the purposes of training or teaching, by an approved supervisor who monitors the performance or a person's supervised interaction with a client and provides regular documented face-to-face consultation, guidance, and instructions with respect to the clinical skills and competencies of the person supervised.

(B) "Supervision" may include without limitation the review of case presentation, audio tapes, video tapes, and direct observation.

History: Acts 2019, No. 686, § 1.

17-95-1103. Exemptions from genetic counselor licensure.

This subchapter does not require licensure as a genetic counselor of:

(1) An individual who is licensed or lawfully permitted to practice by this state as a healthcare professional and who is practicing within his or her scope of practice, including without limitation a physician or an advanced practice registered nurse;

(2) An individual who has successfully completed an accredited genetic counseling training program and who is:

(A) Reapplying for the American Board of Genetic Counseling certification examination and gathering logbook cases under supervision at an approved genetic counseling training site; or

(B) Practicing under direct supervision of a licensed physician;

(3) A student enrolled in an approved academic program in genetic counseling if the practice constitutes a part of a supervised course of study and the student is designated by a title that clearly indicates the student's status as a student or trainee;

(4)

(A) An individual who is employed by a state genetics center to provide education regarding single gene conditions, including without limitation sickle cell, cystic fibrosis, and hemoglobinopathies.

(B) An individual described in subdivision (4)(A) of this section shall not use the title "genetic counselor" or any other title tending to indicate that he or she is a genetic counselor unless he or she is licensed in this state; and

(5)

(A) A visiting genetic counselor who is certified by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics from outside the state performing activities and services for a period of thirty (30) days each year.

(B) A visiting genetic counselor shall be licensed if the license is available in his or her home state.

History: Acts 2019, No. 686, § 1.

17-95-1104. Authority of the Arkansas State Medical Board.

The Arkansas State Medical Board shall:

(1) Develop appropriate rules necessary to regulate genetic counselors;

(2) Receive, review, and approve applications for genetic counselor licensure;

(3) Issue, renew, suspend, revoke, or deny licensure as a genetic counselor;

(4) Conduct hearings on investigative and disciplinary proceedings;

(5)

(A) Maintain a database of all licensees and all persons whose licenses have been suspended, revoked, or denied.

(B) Access to a database under subdivision (5)(A) of this section shall be available upon written request and payment of an appropriate fee as determined by the board; and

(6) Perform other functions and duties required to carry out this subchapter.

History: Acts 2019, No. 686, § 1.

17-95-1105. Title protection.

A person shall not use or assume the title "licensed genetic counselor" or "genetic counselor" or use any words, letters, abbreviations, or insignia indicating or implying that the person holds a genetic counselor license unless the person is licensed by the Arkansas State Medical Board.

History: Acts 2019, No. 686, § 1.

17-95-1106. Genetic counselor licensure.

(a) The Arkansas State Medical Board shall license as a licensed genetic counselor an applicant who:

(1) Submits an application approved by the Arkansas State Medical Board;

(2) Pays an application fee approved by the Arkansas State Medical Board that is comparable to other fees for licensure of other midlevel healthcare professionals licensed by the Arkansas State Medical Board; and

(3) Provides evidence of:

(A) Having earned a master's degree from a genetic counseling training program that is accredited by the American Board of Genetic Counseling or an equivalent as determined by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics; and

(B) Meets the examination requirements for certification and has current certification as a genetic counselor by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics.

(b)

(1) The Arkansas State Medical Board may issue a license to an applicant who provides evidence that he or she is licensed to practice as a genetic counselor in another state or territory if the requirements for licensure in the other state or territory are equal to the requirements in this subchapter.

(2) The issuance of a license by reciprocity shall be at the sole discretion of the Arkansas State Medical Board.

History: Acts 2019, No. 686, § 1.

17-95-1107. Renewal of genetic counselor license.

(a) Except in the case of a temporary license under § 17-95-1108, a license shall be valid for a two-year period from the date of issuance.

(b) Upon receipt of a renewal application and renewal fees as determined by the Arkansas State Medical Board, the board shall renew a license to practice as a licensed genetic counselor.

(c)

(1) As a condition of licensure renewal, a licensed genetic counselor shall submit documentation that he or she has completed fifty (50) hours of continuing education units approved by the board.

(2) The licensed genetic counselor is responsible for maintaining:

(A) Competent records of having completed qualified professional education for a period of four (4) years after close of the two-year period to which the records pertain; and

(B) Information with respect to having completed a qualified professional education to demonstrate that the education meets the requirements of this subchapter.

(3) The board may waive the continuing education requirement or grant an extension of time to complete the continuing education requirement in cases of retirement, illness, disability, or other undue hardship.

History: Acts 2019, No. 686, § 1.

17-95-1108. Temporary licensure.

(a)

(1) The Arkansas State Medical Board may issue a temporary license to an applicant who does not meet the certification requirement in § 17-95-1106 if the applicant:

(A) Has been granted an active-candidate status by the American Board of Genetic Counseling;

(B) Applies for and takes the certification examination within twelve (12) months of the issuance of a temporary license; and

(C) Submits an application and appropriate application fees to the Arkansas State Medical Board.

(2) A temporary license is valid for one (1) year from the date of issuance.

(3)

(A) A temporary license may be renewed for one (1) year if the applicant fails on his or her first attempt to pass the certification examination of the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics.

(B) An application for renewal shall be signed by a supervisor of the applicant.

(4) A temporary license shall expire automatically upon the earliest of:

(A) The date of issuance of a license under § 17-95-1106;

(B) Ninety (90) days after the date that the applicant fails on his or her second attempt to pass the certification examination; or

(C) The date printed on the temporary license.

(b) As a condition of temporary licensure, an applicant shall work under the supervision of a licensed genetic counselor or a licensed physician with current American Board of Genetic Counseling certification in clinical genetics when the applicant provides genetic counseling services.

(c) A temporary license shall not be issued if the applicant has failed the American Board of Genetic Counseling certification examination more than two (2) times.

History: Acts 2019, No. 686, § 1.

17-95-1109. Denial, suspension, revocation, or refusal to renew — Censure.

(a) The Arkansas State Medical Board may deny, suspend, revoke, or refuse to renew a license, or may reprimand, censure, place on probation, or otherwise discipline a licensee, upon proof that the licensee has:

(1) Obtained or attempted to obtain a license by fraud or deception;

(2) Been convicted of a felony under state or federal law;

(3) Been adjudicated mentally ill or incompetent by a court;

(4) Used illicit drugs or intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants to an extent that adversely affects the practice of genetic counseling;

(5) Engaged in unethical or unprofessional conduct, including without limitation willful acts, negligence, or incompetence in the course of professional practice;

(6) Violated any provision of this subchapter or any rule of the board; or

(7) Been denied licensure or disciplined in another state or territory in connection with a license in another state or territory.

(b) A licensee under subsection (a) of this section shall promptly deliver his or her license to the board if the licensee:

(1) Has his or her license suspended or revoked; or

(2) Surrenders his or her license with or without prejudice if the surrender is approved by the board.

(c) The board may restore a license or remove a probation on a license based on the decision of the board.

History: Acts 2019, No. 686, § 1.

17-95-1110. Surrendering license due to retirement.

(a) In order to retire his or her license, a licensed genetic counselor shall file an affidavit with the Arkansas State Medical Board stating the date on which the individual will retire or has retired and other information determined necessary by the board.

(b) If a licensed genetic counselor retires his or her license as described in subsection (a) of this section, the individual shall apply for licensure as provided in § 17-95-1106 and is not liable for renewal fees that may accrue during the retirement period.

History: Acts 2019, No. 686, § 1.

OCCUPATIONAL THERAPISTS

SUB-CHAPTER 1 – GENERAL PROVISIONS

17-88-101. Short title.

This chapter shall be known and may be cited as the "Arkansas Occupational Therapy Practice Act".

History: Acts 1977, No. 381, § 1; A.S.A. 1947, § 72-1901.

17-88-102. Definitions.

As used in this chapter:

(1) "Occupational therapist" means a person licensed to practice occupational therapy, whose license is in good standing;

(2)

(A) "Occupational therapy" means the evaluation and treatment of individuals whose ability to cope with the tasks of living is threatened or impaired by developmental deficits, the aging process, poverty or cultural differences, environmental or sensory deprivation, physical injury or illness, or psychological and social disability.

(B) The treatment utilizes task-oriented activities to prevent or correct physical or emotional deficits or to minimize the disabling effect of these deficits in the life of the individual so that he or she might perform tasks normally performed at his or her stage of development.

(C) Specific occupational therapy techniques include, but are not limited to:

(i) Instruction in activities of daily living, design, fabrication, application, recommendation, and instruction in the use of selected orthotic or prosthetic devices and other adaptive equipment;

(ii) Perceptual-motor and sensory integrative activities;

(iii) The use of specifically designed crafts;

(iv) Exercises to enhance functional performance; and

(v) Prevocational evaluation and treatment.

(D) The techniques are applied in the treatment of individual patients or clients, in groups, or through social systems;

(3) "Occupational therapy aide" or "worker" means a person who aids a licensed occupational therapist in the practice of occupational therapy, whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy;

(4) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the frequent and regular supervision by or with consultation with an occupational therapist, whose license is in good standing. The definition of "frequent" and "regular" will be established by the Arkansas State Occupational Therapy Examining Committee; and

(5) "Person" means any individual, partnership, unincorporated organization, or corporate body, except that only an individual may be licensed under this chapter.

History: Acts 1977, No. 381, § 2; A.S.A. 1947, § 72-1902; Acts 2019, No. 386, § 40.

17-88-103. Exceptions.

Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of:

(1) Any person licensed in this state by any other law from engaging in the profession or occupation for which he or she is licensed;

(2) Any person employed as an occupational therapist or occupational therapy assistant by the United States, if the person provides occupational therapy solely under the direction or control of the organization by which he or she is employed;

(3) Any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if such activities and services constitute a part of a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee;

(4) Any person fulfilling the supervised field work experience requirements of § 17-88-302, if such activities and services constitute a part of the experiences necessary to meet the requirements of that section;

(5) Any person employed by or working under the direct supervision of an occupational therapist as an occupational therapy aide; or

(6) Any person licensed as an occupational therapist in another state, United States possession, or country or who has received at least a baccalaureate degree or its equivalent in occupational therapy and who is in this state for the purpose of:

(A) Consultation, provided the practice is limited to consultation; or

(B) Conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or postgraduate education in an approved school of occupational therapy or its affiliated clinical facilities or healthcare agencies or before a group of licensed occupational therapists.

History: Acts 1977, No. 381, § 18; A.S.A. 1947, § 72-1918.

17-88-104. False oath or affirmation — Penalty.

(a) A person who makes a willfully false oath or affirmation in any case in which an oath or affirmation is required by this chapter or who obtains or attempts to obtain registration by any fraudulent representation shall be guilty of a misdemeanor.

(b) Upon conviction, he or she shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for a period of not less than one (1) month nor more than six (6) months, or be both fined and imprisoned.

History: Acts 1977, No. 381, § 17; A.S.A. 1947, § 72-1917.

17-88-105. Disposition of funds.

All fees and penalties provided for in this chapter shall be received by the Arkansas State Medical Board, shall be deposited into the State Treasury, shall be credited to the State Medical Board — Occupational Therapy Fund, which is created, and shall be expended by the board in accordance with the appropriation by the General Assembly.

History: Acts 1977, No. 381, § 20; A.S.A. 1947, § 72-1920.

SUB-CHAPTER 2 – REGLATORY AGENCIES

17-88-201. Arkansas State Medical Board.

(a) The Arkansas State Medical Board shall administer the provisions of this chapter.

(b) With the advice and assistance of the Arkansas State Occupational Therapy Examining Committee, the board shall pass upon the qualification of applicants for licensure, regulate and supervise all examinations, determine the applicants who successfully pass the examination, and license the applicants who meet the qualifications provided in this chapter.

(c) In addition to the other powers and duties set out elsewhere in this chapter, the board shall:

(1) Adopt and put into effect reasonable rules to carry this chapter into effect;

(2) Investigate reported violations of this chapter and take such steps as may be necessary to enforce this chapter;

(3) Keep a record of its proceedings under this chapter and of all persons registered by it on a register which shall show the name of every registrant, his or her last known place of business, his or her last known place of residence, and the date and number of his or her license; and

(4) Compile a list of all occupational therapists who are licensed to practice occupational therapy in the State of Arkansas. The list shall be printed annually. It shall furnish a copy of the list to all persons requesting it upon the payment of a fee as may be fixed by the board to compensate for the cost of printing the list.

History: Acts 1977, No. 381, §§ 3, 5; A.S.A. 1947, §§ 72-1903, 72-1905; Acts 2019, No. 315, § 1545.

17-88-202. Arkansas State Occupational Therapy Examining Committee.

(a) There is created an Arkansas State Occupational Therapy Examining Committee to assist the Arkansas State Medical Board in carrying out the provisions of this chapter.

(b)

(1) The committee shall consist of five (5) members appointed by the Governor subject to confirmation by the Senate for terms of five (5) years, each of whom is a citizen of the United States and a resident of the State of Arkansas. One (1) member shall be a member of a minority race.

(2) Three (3) members shall be persons licensed under this chapter who have had at least three (3) years' experience in the practice of occupational therapy in this state and shall be appointed after consulting the Arkansas Occupational Therapy Association.

(3) One (1) member shall be a resident of this state who is not engaged in or licensed to practice as an occupational therapist, and shall represent consumers.

(4) One (1) member shall not be actively engaged in or retired from the profession of occupational therapy, shall be sixty (60) years of age or older, and shall represent the elderly. This member shall be appointed from the state at large, subject to the confirmation of the Senate. He or she will be a full voting member but shall not participate in the grading of examinations.

(c) The consumer representative position and the representative of the elderly position may not be filled by the same person.

(d) Vacancies shall be filled in the same manner for the unexpired term.

(e) The members of the committee may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

(f) The committee is directed by this chapter to define "regular" and "frequent" as they relate to the supervision of occupational therapy assistants and to write and publish a code of ethics for the practice of occupational therapy and rules defining unprofessional conduct and gross negligence.

(g) In addition, the committee may be delegated by the board such powers and duties as it may deem proper.

History: Acts 1977, No. 381, §§ 4, 6, 20; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; A.S.A. 1947, §§ 6-623 — 6-626, 72-1904, 72-1906, 72-1920; Acts 1997, No. 250, § 161; 2017, No. 540, § 29.

SUB-CHAPTER 3 – LICENSING

17-88-301. License required.

No person shall practice occupational therapy or hold himself or herself out as an occupational therapist or occupational therapy assistant or as being able to practice occupational therapy or to render occupational therapy services in the state unless he or she is licensed in accordance with the provisions in this chapter.

History: Acts 1977, No. 381, § 18; A.S.A. 1947, § 72-1918.

17-88-302. Qualifications of applicants.

Each applicant must meet the following conditions:

(1) The applicant must be an individual at least eighteen (18) years of age;

(2) [Repealed.]

(3)

(A) The applicant must have successfully completed the academic requirements of an educational program in occupational therapy with concentration in biological or physical science, psychology, and sociology, and with education in selected manual skills.

(B) For an occupational therapist, the program shall be accredited by the Accreditation Council for Occupational Therapy Education and shall lead to the awarding of a bachelor's or master's level degree or advanced standing certificate in occupational therapy.

(C) For an occupational therapy assistant, the program shall be approved by the Accreditation Council for Occupational Therapy Education and shall lead to the awarding of an associate level degree in occupational therapy;

(4) The applicant must have successfully completed a period of supervised field work experience at a recognized educational institution where he or she met the following academic requirements:

(A) For an occupational therapist, a minimum of six (6) months of supervised field work experience is required; or

(B) For an occupational therapy assistant, a minimum of two (2) months of supervised field work experience at an approved facility other than the one at which the person was previously employed, if applicable, is required; and

(5) The applicant must have passed an examination conducted by the Arkansas State Medical Board as provided in § 17-88-304.

History: Acts 1977, No. 381, § 7; A.S.A. 1947, § 72-1907; Acts 1993, No. 1219, § 16; 2019, No. 265, § 1; 2019, No. 990, § 78.

17-88-303. Issuance pursuant to examination.

(a) The Arkansas State Medical Board shall register as an occupational therapist and shall issue a license to any person who satisfactorily passes the examination provided for in § 17-88-304 and who otherwise meets the requirements for qualifications contained in this subchapter and pays a fee as determined by the Arkansas State Occupational Therapy Examining Committee.

(b) The board shall register as an occupational therapy assistant and shall issue a license to any person who satisfactorily passes the examination provided for in § 17-88-304 and who otherwise meets the qualifications contained herein and pays a fee as determined by the committee.

History: Acts 1977, No. 381, § 10; A.S.A. 1947, § 72-1910.

17-88-304. Examinations.

(a)

(1) Any person applying for licensure, in addition to demonstrating his or her eligibility in accordance with the requirements of § 17-88-302, shall make application to the Arkansas State Medical Board for examination at least thirty (30) days before the date of examination upon a form and in a manner as the board shall prescribe.

(2) The application shall be accompanied by a fee to be determined by the Arkansas State Occupational Therapy Examining Committee. The fee shall not be refunded.

(b)

(1) An applicant who fails an examination may make reapplication for reexamination accompanied by the prescribed fee.

(2) Any applicant who fails three (3) examinations must take additional educational work in the areas of weakness as deemed necessary by the committee before being eligible for reexamination.

(c)

(1) Each applicant for licensure under this chapter shall be examined by the board to test his or her knowledge of the basic and clinical sciences relating to occupational therapy and to occupational therapy theory and practice.

(2) The knowledge tested will include the applicant's professional skills and judgment in the utilization of occupational therapy techniques and methods and any other subjects the board, with the advice of the committee, may deem useful to determine the applicant's fitness to practice.

(3) The committee shall establish standards for acceptable performance.

(d)

(1) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine.

(2) Examination shall be given at least two (2) times each year at such places within this state as the board may determine. The board shall give reasonable public notice of the examination in accordance with its rules at least sixty (60) days before their administration and shall notify by mail all individual examination applicants of the time and place of their administration.

(e) Applicants may obtain their examination scores and may review their papers in accordance with such rules as the board may establish.

History: Acts 1977, No. 381, § 8; A.S.A. 1947, § 72-1908.

17-88-305. Reciprocity.

(a) A licensed occupational therapist who has been issued a license to practice occupational therapy in another state or territory whose requirements for registration and licensure were equal at the time of his or her registration to the requirements in this chapter may be registered and issued a license by the Arkansas State Medical Board, provided that the state or territory from which the applicant comes accords a similar privilege of registration and licensure to persons registered and licensed in the State of Arkansas by the board.

(b) The issuance of a license by reciprocity by the board shall be at the sole discretion of the board, and the board may provide such rules governing admission as it may deem necessary or desirable.

(c) Any occupational therapist or occupational therapy assistant who has been certified by the Accreditation Council of Occupational Therapy Education and who has been in continuous practice for the past five (5) years and who comes to Arkansas from a state presently not granting reciprocity or from a state not requiring licensing shall be eligible for licensing in Arkansas.

History: Acts 1977, No. 381, § 12; A.S.A. 1947, § 72-1912; Acts 2019, No. 265, § 2; 2019, No. 315, § 1546.

17-88-306. Temporary licenses.

(a) The Executive Director of the Arkansas State Medical Board shall issue a temporary license without examination to practice occupational therapy in association with an occupational therapist licensed under this chapter to persons who have completed the education and experience requirements of this chapter and who are required to be licensed in order to obtain employment as an occupational therapist.

(b) The temporary license shall be valid until the date on which the results of the next qualifying examination have been made public.

(c) This temporary license shall only be renewed one (1) time if the applicant has not passed the examination or if the applicant has failed to take the qualifying examination, unless that failure is justified by good cause acceptable at the discretion of the executive director.

History: Acts 1977, No. 381, § 9; A.S.A. 1947, § 72-1909.

17-88-307. Reregistration.

(a)

(1) A renewal or reregistration fee which shall be determined by the Arkansas State Occupational Therapy Examining Committee shall be paid to the Arkansas State Medical Board by each occupational therapist who holds a license to practice occupational therapy in the State of Arkansas.

(2) The committee will also establish additional requirements for license renewal which provide evidence of continued competency.

(b) The reregistration fee shall be paid before or during the birth month of the license holder beginning in 1998, and each year thereafter. During the implementation year of 1998, fees shall be prorated.

(c)

(1) Failure to reregister and pay the reregistration fee by the last day of the birth month of the license holder shall cause the license of any person so failing to pay the registration fee to expire automatically.

(2) Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty, to be determined by the committee, for each year or part of a year it has been delinquent.

(3) Any person who shall fail to reregister and pay the annual license fee for five (5) consecutive years shall be required to be reexamined by the board before his or her license may be reinstated.

History: Acts 1977, No. 381, § 13; A.S.A. 1947, § 72-1913; Acts 1997, No. 313, § 1.

17-88-308. Display of license or renewal certificate.

Each licensee shall display his or her license and renewal certificate in a conspicuous place in the principal office where he or she practices occupational therapy.

History: Acts 1977, No. 381, § 11; A.S.A. 1947, § 72-1911.

17-88-309. Denial, revocation, or suspension — Grounds.

(a) After notice and hearing, the Arkansas State Medical Board may deny or refuse to renew a license or may suspend or revoke a license when the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

(b) Unprofessional conduct shall include:

(1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;

(2) Being guilty of unprofessional conduct or gross negligence as defined by rules established by the Arkansas State Occupational Therapy Examining Committee or violating the code of ethics adopted and published by the committee;

(3) Treating, or undertaking to treat, ailments of human beings otherwise than by occupational therapy, as authorized by this chapter;

(4) Being convicted of a felony listed under § 17-3-102; and

(5) Using any narcotic drug or alcohol to an extent that impairs the ability to perform the work of an occupational therapist or occupational therapy assistant with safety to the public.

(c) The procedure hereunder on all refusals, revocations, and suspensions of license shall be as prescribed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History: Acts 1977, No. 381, § 14; A.S.A. 1947, § 72-1914; Acts 2019, No. 990, § 79.

17-88-310. Denial, revocation, or suspension — Proceedings.

(a)

(1) Any person may file a complaint with the Arkansas State Medical Board against any person having a license to practice occupational therapy in this state charging the person with having violated the provisions of § 17-88-309.

(2) The complaint shall set forth a specification of charges in sufficient detail so as to disclose to the accused fully and completely the alleged acts of misconduct for which he or she is charged.

(b) When a complaint is filed, the Executive Director of the Arkansas State Medical Board shall mail a copy to the accused by registered mail at his or her last address of record. With the copy shall be a written notice of the time and place of hearing and advising him or her that he or she may be present in person and by counsel, if he or she so desires, to offer evidence and be heard in his or her defense.

(c)

(1) At the time and place fixed for a hearing before the board, the board shall receive evidence upon the subject matter under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his or her defense.

(2) The board shall not be bound by strict or technical rules of evidence but shall consider all evidence fully and fairly. However, all oral testimony considered by the board must be under oath.

(3) All hearings and appeals shall be conducted in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(4) All evidence considered by the board shall be construed so as not to deprive any person of his or her rights without full, fair, and impartial hearing.

History: Acts 1977, No. 381, § 15; A.S.A. 1947, § 72-1915.

17-88-311. Unlawful practice — Injunction.

(a) The courts of record in this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of occupational therapy in the county in which the alleged unlawful practice occurred or in which the defendant resides.

(b) The issuance of an injunction shall not relieve a person from criminal prosecution for violation of this chapter, but the remedy of injunction shall be in addition to criminal prosecution.

History: Acts 1977, No. 381, § 19; A.S.A. 1947, § 72-1919.

17-88-312. Unlawful use of professional title — Penalty.

(a)

(1) It is unlawful for any person who is not licensed under this chapter as an occupational therapist or an occupational therapy assistant or whose registration has been suspended or revoked, to use, in connection with his or her name or place of business, the words "occupational therapist", "licensed occupational therapist", "occupational therapist registered", "occupational therapy assistant", "licensed occupational therapy assistant", "certified occupational therapy assistant", or the letters "O.T.", "L.O.T.", "O.T.R.", "O.T.A.", "L.O.T.A.", or "C.O.T.A.", or any other words, letters, abbreviations, or insignia indicating or implying that he or she is an occupational therapist or an occupational therapy assistant.

(2) It is also unlawful for any such person, in any way, orally, in writing, in print, or by sign, directly or by implication, to represent himself or herself as an occupational therapist or an occupational therapy assistant.

(b) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for a period of not less than one (1) month nor more than six (6) months, or be both fined and imprisoned. Each day of violation shall constitute a separate offense.

History: Acts 1977, No. 381, § 16; A.S.A. 1947, § 72-1916.

17-88-401. Text of compact.

The Occupational Therapy Licensure Compact is enacted into law and entered into by this state with all states legally joining therein and in the form substantially as follows:

OCCUPATIONAL THERAPY LICENSURE COMPACT

SECTION 1. PURPOSE

The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with the goal of improving public access to Occupational Therapy services. The Practice of Occupational Therapy occurs in the State where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Occupational Therapy services by providing for the mutual recognition of other Member State licenses;
B. Enhance the States' ability to protect the public's health and safety;
C. Encourage the cooperation of Member States in regulating multi-State Occupational Therapy Practice;
D. Support spouses of relocating military members;
E. Enhance the exchange of licensure, investigative, and disciplinary information between Member States;
F. Allow a Remote State to hold a provider of services with a Compact Privilege in that State accountable to that State's practice standards; and
G. Facilitate the use of Telehealth technology in order to increase access to Occupational Therapy services.

SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. “Active Duty Military” means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C. Chapter 1211.
B. “Adverse Action” means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a Licensing Board or other authority against an Occupational Therapist or Occupational Therapy Assistant, including actions against an individual's license or Compact Privilege such as censure, revocation, suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.
C. “Alternative Program” means a non-disciplinary monitoring process approved by an Occupational Therapy Licensing Board.
D. “Compact Privilege” means the authorization, which is equivalent to a license, granted by a Remote State to allow a Licensee from another Member State to practice as an Occupational Therapist or practice as an Occupational Therapy Assistant in the Remote State under its laws and rules. The Practice of Occupational Therapy occurs in the Member State where the patient/client is located at the time of the patient/client encounter.
E. “Continuing Competence/Education” means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.
F. “Current Significant Investigative Information” means Investigative Information that a Licensing Board, after an inquiry or investigation that includes notification and an opportunity for the Occupational Therapist or Occupational Therapy Assistant to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.
G. “Data System” means a repository of information about Licensees, including but not limited to license status, Investigative Information, Compact Privileges, and Adverse Actions.
H. “Encumbered License” means a license in which an Adverse Action restricts the Practice of Occupational Therapy by the Licensee or said Adverse Action has been reported to the National Practitioner Data Bank (NPDB).

I. “Executive Committee” means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.
J. “Home State” means the Member State that is the Licensee's Primary State of Residence.
K. “Impaired Practitioner” means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.
L. “Investigative Information” means information, records, and/or documents received or generated by an Occupational Therapy Licensing Board pursuant to an investigation.
M. “Jurisprudence Requirement” means the assessment of an individual's knowledge of the laws and rules governing the Practice of Occupational Therapy in a State.
N. “Licensee” means an individual who currently holds an authorization from the State to practice as an Occupational Therapist or as an Occupational Therapy Assistant.
O. “Member State” means a State that has enacted the Compact.
P. “Occupational Therapist” means an individual who is licensed by a State to practice Occupational Therapy.
Q. “Occupational Therapy Assistant” means an individual who is licensed by a State to assist in the Practice of Occupational Therapy.
R. “Occupational Therapy,” “Occupational Therapy Practice,” and the “Practice of Occupational Therapy” mean the care and services provided by an Occupational Therapist or an Occupational Therapy Assistant as set forth in the Member State's statutes and regulations.
S. “Occupational Therapy Compact Commission” or “Commission” means the national administrative body whose membership consists of all States that have enacted the Compact.
T. “Occupational Therapy Licensing Board” or “Licensing Board” means the agency of a State that is authorized to license and regulate Occupational Therapists and Occupational Therapy Assistants.
U. “Primary State of Residence” means the state (also known as the Home State) in which an Occupational Therapist or Occupational Therapy Assistant who is not Active Duty Military declares a primary residence for legal purposes as verified by: driver's license, federal income tax return, lease, deed, mortgage or voter registration or other verifying documentation as further defined by Commission Rules.
V. “Remote State” means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Compact Privilege.
W. “Rule” means a regulation promulgated by the Commission that has the force of law.
X. “State” means any state, commonwealth, district, or territory of the United States of America that regulates the Practice of Occupational Therapy.
Y. “Single-State License” means an Occupational Therapist or Occupational Therapy Assistant license issued by a Member State that authorizes practice only within the issuing State and does not include a Compact Privilege in any other Member State.
Z. “Telehealth” means the application of telecommunication technology to deliver Occupational Therapy services for assessment, intervention and/or consultation.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To participate in the Compact, a Member State shall:
1. License Occupational Therapists and Occupational Therapy Assistants
2. Participate fully in the Commission's Data System, including but not limited to using the Commission's unique identifier as defined in Rules of the Commission;
3. Have a mechanism in place for receiving and investigating complaints about Licensees;
4. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;
5. Implement or utilize procedures for considering the criminal history records of applicants for an initial Compact Privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A Member State shall, within a time frame established by the Commission, require a criminal background check for a Licensee seeking/applying for a Compact Privilege whose Primary State of Residence is that Member State, by receiving the results of the Federal Bureau of Investigation criminal record search, and shall use the results in making licensure decisions.
b. Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.

6. Comply with the Rules of the Commission;
7. Utilize only a recognized national examination as a requirement for licensure pursuant to the Rules of the Commission; and
8. Have Continuing Competence/Education requirements as a condition for license renewal.

B. A Member State shall grant the Compact Privilege to a Licensee holding a valid unencumbered license in another Member State in accordance with the terms of the Compact and Rules.
C. Member States may charge a fee for granting a Compact Privilege.
D. A Member State shall provide for the State's delegate to attend all Occupational Therapy Compact Commission meetings.
E. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single-State License as provided under the laws of each Member State. However, the Single-State License granted to these individuals shall not be recognized as granting the Compact Privilege in any other Member State.
F. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.

SECTION 4. COMPACT PRIVILEGE

A. To exercise the Compact Privilege under the terms and provisions of the Compact, the Licensee shall:
1. Hold a license in the Home State;
2. Have a valid United States Social Security Number or National Practitioner Identification number;
3. Have no encumbrance on any State license;
4. Be eligible for a Compact Privilege in any Member State in accordance with Section 4D, F, G, and H;
5. Have paid all fines and completed all requirements resulting from any Adverse Action against any license or Compact Privilege, and two years have elapsed from the date of such completion;
6. Notify the Commission that the Licensee is seeking the Compact Privilege within a Remote State(s);
7. Pay any applicable fees, including any State fee, for the Compact Privilege;
8. Complete a criminal background check in accordance with Section 3A(5);
a. The Licensee shall be responsible for the payment of any fee associated with the completion of a criminal background check.
9. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Compact Privilege; and
10. Report to the Commission Adverse Action taken by any non-Member State within 30 days from the date the Adverse Action is taken.

B. The Compact Privilege is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of Section 4A to maintain the Compact Privilege in the Remote State.
C. A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege shall function within the laws and regulations of the Remote State.
D. Occupational Therapy Assistants practicing in a Remote State shall be supervised by an Occupational Therapist licensed or holding a Compact Privilege in that Remote State.
E. A Licensee providing Occupational Therapy in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Compact Privilege in the Remote State for a specific period of time, impose fines, and/or take any other necessary actions to protect the

health and safety of its citizens. The Licensee may be ineligible for a Compact Privilege in any State until the specific time for removal has passed and all fines are paid.

F. If a Home State license is encumbered, the Licensee shall lose the Compact Privilege in any Remote State until the following occur:
   1. The Home State license is no longer encumbered; and
   2. Two years have elapsed from the date on which the Home State license is no longer encumbered in accordance with Section 4(F)(1).

G. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of Section 4A to obtain a Compact Privilege in any Remote State.

H. If a Licensee's Compact Privilege in any Remote State is removed, the individual may lose the Compact Privilege in any other Remote State until the following occur:
   1. The specific period of time for which the Compact Privilege was removed has ended;
   2. All fines have been paid and all conditions have been met;
   3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2); and
   4. The Compact Privileges are reinstated by the Commission, and the compact Data System is updated to reflect reinstatement.

I. If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous charge, privileges shall be restored through the compact Data System.

J. Once the requirements of Section 4H have been met, the Licensee must meet the requirements in Section 4A to obtain a Compact Privilege in a Remote State.

SECTION 5. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE

A. An Occupational Therapist or Occupational Therapy Assistant may hold a Home State license, which allows for Compact Privileges in Member States, in only one Member State at a time.

B. If an Occupational Therapist or Occupational Therapy Assistant changes Primary State of Residence by moving between two Member States:
   1. The Occupational Therapist or Occupational Therapy Assistant shall file an application for obtaining a new Home State license by virtue of a Compact Privilege, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.
   2. Upon receipt of an application for obtaining a new Home State license by virtue of compact privilege, the new Home State shall verify that the Occupational Therapist or Occupational Therapy Assistant meets the pertinent criteria outlined in Section 4 via the Data System, without need for primary source verification except for:
      a. an FBI fingerprint based criminal background check if not previously performed or updated pursuant to applicable Rules adopted by the Commission in accordance with Public Law 92-544;
      b. other criminal background check as required by the new Home State; and
      c. submission of any requisite Jurisprudence Requirements of the new Home State.
   3. The former Home State shall convert the former Home State license into a Compact Privilege once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission.
   4. Notwithstanding any other provision of this Compact, if the Occupational Therapist or Occupational Therapy Assistant cannot meet the criteria in Section 4, the new Home State shall apply its requirements for issuing a new Single-State License.
   5. The Occupational Therapist or the Occupational Therapy Assistant shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If an Occupational Therapist or Occupational Therapy Assistant changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single-State License in the new State.

D. Nothing in this compact shall interfere with a Licensee's ability to hold a Single-State License in multiple States; however, for the purposes of this compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A. Active Duty Military personnel, or their spouses, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State or through the process described in Section 5.

SECTION 7. ADVERSE ACTIONS

A. A Home State shall have exclusive power to impose Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's license issued by the Home State.
B. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:
   1. Take Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege within that Member State.
   2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the State in which the witnesses or evidence are located.
C. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.
D. The Home State shall complete any pending investigations of an Occupational Therapist or Occupational Therapy Assistant who changes Primary State of Residence during the course of the investigations. The Home State, where the investigations were initiated, shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the OT Compact Commission Data System. The Occupational Therapy Compact Commission Data System administrator shall promptly notify the new Home State of any Adverse Actions.
E. A Member State, if otherwise permitted by State law, may recover from the affected Occupational Therapist or Occupational Therapy Assistant the costs of investigations and disposition of cases resulting from any Adverse Action taken against that Occupational Therapist or Occupational Therapy Assistant.
F. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.
G. Joint Investigations
   1. In addition to the authority granted to a Member State by its respective State Occupational Therapy laws and regulations or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.
   2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.
H. If an Adverse Action is taken by the Home State against an Occupational Therapist's or Occupational Therapy Assistant's license, the Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege in all other Member States shall be deactivated until all encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against an Occupational Therapist's or Occupational Therapy

Assistant's license shall include a Statement that the Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege is deactivated in all Member States during the pendency of the order.

I. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

J. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION.

A. The Compact Member States hereby create and establish a joint public agency known as the Occupational Therapy Compact Commission:
   1. The Commission is an instrumentality of the Compact States.
   2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
   3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings
   1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Board.
   2. The delegate shall be either:
      a. A current member of the Licensing Board, who is an Occupational Therapist, Occupational Therapy Assistant, or public member; or
      b. An administrator of the Licensing Board.
   3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed.
   4. The Member State board shall fill any vacancy occurring in the Commission within 90 days.
   5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.
   6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.
   7. The Commission shall establish by Rule a term of office for delegates.

C. The Commission shall have the following powers and duties:
   1. Establish a Code of Ethics for the Commission;
   2. Establish the fiscal year of the Commission;
   3. Establish bylaws;
   4. Maintain its financial records in accordance with the bylaws;
   5. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;
   6. Promulgate uniform Rules to facilitate and coordinate implementation and administration of this Compact. The Rules shall have the force and effect of law and shall be binding in all Member States;
   7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Occupational Therapy Licensing Board to sue or be sued under applicable law shall not be affected;
   8. Purchase and maintain insurance and bonds;
   9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;
   10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;
12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;
13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
14. Establish a budget and make expenditures;
15. Borrow money;
16. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;
17. Provide and receive information from, and cooperate with, law enforcement agencies;
18. Establish and elect an Executive Committee; and
19. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Occupational Therapy licensure and practice.

D. The Executive Committee

The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Committee shall be composed of nine members:
    a. Seven voting members who are elected by the Commission from the current membership of the Commission;
    b. One ex-officio, nonvoting member from a recognized national Occupational Therapy professional association; and
    c. One ex-officio, nonvoting member from a recognized national Occupational Therapy certification organization.
2. The ex-officio members will be selected by their respective organizations.
3. The Commission may remove any member of the Executive Committee as provided in bylaws.
4. The Executive Committee shall meet at least annually.
5. The Executive Committee shall have the following Duties and responsibilities:
    a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege;
    b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
    c. Prepare and recommend the budget;
    d. Maintain financial records on behalf of the Commission;
    e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;
    f. Establish additional committees as necessary; and
    g. Perform other duties as provided in Rules or bylaws.

E. Meetings of the Commission
1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Section 10.
2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:
    a. Non-compliance of a Member State with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
c. Current, threatened, or reasonably anticipated litigation;
d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
e. Accusing any person of a crime or formally censuring any person;
f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
h. Disclosure of investigative records compiled for law enforcement purposes;
i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or
j. Matters specifically exempted from disclosure by federal or Member State statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.
4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.
3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.
4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.
5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this

paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.
3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 9. DATA SYSTEM

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and Investigative Information on all licensed individuals in Member States.
B. A Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable (utilizing a unique identifier) as required by the Rules of the Commission, including:
   1. Identifying information;
   2. Licensure data;
   3. Adverse Actions against a license or Compact Privilege;
   4. Non-confidential information related to Alternative Program participation;
   5. Any denial of application for licensure, and the reason(s) for such denial;
   6. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission; and
   7. Current Significant Investigative Information.
C. Current Significant Investigative Information and other Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.
D. The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.
E. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.
F. Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

SECTION 10. RULEMAKING

A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.
B. The Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.
D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.
E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

    1. On the website of the Commission or other publicly accessible platform; and
    2. On the website of each Member State Occupational Therapy Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

F. The Notice of Proposed Rulemaking shall include:
    1. The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;
    2. The text of the proposed Rule or amendment and the reason for the proposed Rule;
    3. A request for comments on the proposed Rule from any interested person; and
    4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.
H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:
    1. At least twenty five (25) persons;
    2. A State or federal governmental subdivision or agency; or
    3. An association or organization having at least twenty five (25) members.
I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.
    1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.
    2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
    3. All hearings will be recorded. A copy of the recording will be made available on request.
    4. Nothing in this section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.
J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.
K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.
L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking record and the full text of the Rule.
M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided that the usual Rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:
    1. Meet an imminent threat to public health, safety, or welfare;
    2. Prevent a loss of Commission or Member State funds;
    3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or

4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.
2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.
3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

   (a) Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and
   (b) Provide remedial training and specific technical assistance regarding the default.
2. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.
3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.
4. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
5. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.
6. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States.
2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.
3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.
B. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.
C. Any Member State may withdraw from this Compact by enacting a statute repealing the same.
   1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.
   2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Occupational Therapy Licensing Board to comply with the investigative and Adverse Action reporting requirements of this act prior to the effective date of withdrawal.
D. Nothing contained in this Compact shall be construed to invalidate or prevent any Occupational Therapy licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

SECTION 13. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege shall function within the laws and regulations of the Remote State.
B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.
D. Any lawful actions of the Commission, including all Rules and bylaws promulgated by the Commission, are binding upon the Member States.
E. All agreements between the Commission and the Member States are binding in accordance with their terms.
F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

History: Acts 2023, No. 257, § 1.

17-88-402. Administration of compact — Rules.

(a) The Arkansas State Medical Board is the Occupational Therapy Licensure Compact administrator for this state.
(b) The board may adopt rules that are consistent with the Occupational Therapy Licensure Compact necessary to implement this subchapter.
(c) The board is not required to adopt the rules of the Occupational Therapy Licensure Compact Commission for the rules of the Occupational Therapy Licensure Compact Commission to be effective in this state.
(d) For the purposes of the member state's ability to reject a rule under Section 10(C) of the Occupational Therapy Licensure Compact, Arkansas delegates its authority in this provision to the General Assembly or the Legislative Council.

History: Acts 2023, No. 257, § 1.

RESPIRATORY CARE PRACTITIONERS

SUB-CHAPTER 1 – GENERAL PROVISIONS

17-99-101. Short title.

This chapter shall be cited as the "Arkansas Respiratory Care Act".

History: Acts 1969, No. 168, § 19; A.S.A. 1947, § 72-1618; Acts 1987, No. 952, § 17.

17-99-102. Definitions.

As used in this chapter:

(1) "Licensed allied health practitioner" means any person formally trained and tested in an allied health field qualified to deliver medical care to the public and licensed in the State of Arkansas;

(2) "Qualified medical director" means a licensed physician who is the medical director of any inpatient or outpatient respiratory care service, department, home care agency, or long-term care facility;

(3)

(A) "Respiratory care" means the practice of the principles, techniques, psychology, and theories of cardiopulmonary medicine under the verbal or written direction or prescription of a licensed physician or under the supervision of a qualified medical director, or both.

(B) Respiratory care shall include, but not be limited to, the following:

(i) Evaluation and treatment of individuals whose cardiopulmonary functions have been threatened or impaired by developmental defects, the aging process, physical injury or disease, or anticipated dysfunction of the cardiopulmonary system;

(ii) Evaluation techniques, including cardiopulmonary function assessment, gas exchange evaluation, the need and effectiveness of therapeutic modalities and procedures, and assessment and evaluation of the need for extended care and home care procedures and equipment; and

(iii)

(a) The professional application of techniques, equipment, and procedures involved in the administration of respiratory care, such as:

(1) Therapeutic gas administration;

(2) Prescribed medications;

(3) Emergency cardiac, respiratory, and cardiopulmonary resuscitation measures;

(4) Establishing and maintaining artificial airways;

(5) Cardiopulmonary function tests;

(6) Testing and obtaining physiological evaluation of arterial and venous blood samples;

(7) Exercises designed for the rehabilitation of individuals with disabilities that are cardiopulmonary in nature;

(8) Maintaining postural drainage, vibration and chest percussion, aerosol administration, breathing exercises, and artificial and mechanical ventilation; and

(9) Cleaning and sterilization of cardiopulmonary function equipment and its maintenance.

(b) Those techniques may be applied in the treatment of the individual or patient in groups or through healthcare facilities, organizations, or agencies; and

(4) "Respiratory care practitioner" means a licensed person who practices respiratory care as defined in this chapter under the prescription and direction of a licensed physician.

History: Acts 1969, No. 168, § 1; A.S.A. 1947, § 72-1601; Acts 1987, No. 952, § 1; 1995, No. 1094, § 1; 2001, No. 1049, § 2; 2019, No. 386, § 55; 2023, No. 503, § 2.

17-99-103. Penalty — Injunction.

(a) Any person violating the provisions of this chapter shall be guilty of a misdemeanor. Upon conviction, that person shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment in the county jail for a period of not less than one (1) month nor more than six (6) months, or by both fine and imprisonment. Each day of violation shall constitute a separate offense.

(b) The courts of record in this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of respiratory care in the county in which the alleged unlawful practice occurred or in which the defendant resides. The issuance of an injunction shall not relieve a person from criminal prosecution for violation of this chapter, but the remedy of injunction shall be in addition to liability for criminal prosecution.

History: Acts 1969, No. 168, §§ 15, 16; A.S.A. 1947, §§ 72-1615, 72-1616; Acts 1987, No. 952, §§ 13, 14.

SUB-CHAPTER 2 – REGULATORY AGENCIES

17-99-201. Medical board — Powers and duties.

(a) The Arkansas State Medical Board shall administer the provisions of this chapter.

(b) The board, with the advice and assistance of the Arkansas State Respiratory Care Examining Committee, shall:

(1) Pass upon the qualifications of applicants for licensure;

(2) Provide for a nationally standardized examination;

(3) Determine the applicants who successfully pass the examinations; and

(4) License those applicants who meet the qualifications provided in this chapter.

(c) In addition to the other powers and duties set out elsewhere in this chapter, the board shall:

(1) Adopt and put into effect rules to carry this chapter into effect;

(2) Investigate reported violations of this chapter, and take such steps as may be necessary to enforce the chapter;

(3)

(A) Keep a record of its proceedings and a record of all persons registered under this chapter.

(B) The register shall show:

(i) The name of every registrant;

(ii) His or her last known place of business;

(iii) His or her last known place of residence; and

(iv) The date and number of his or her license;

(4)

(A) Compile a list, which shall be printed annually, of all respiratory care practitioners who are licensed to practice respiratory care in the State of Arkansas.

(B) It shall furnish a copy of the list to all persons requesting it upon the payment of such fee as may be fixed by the board to compensate for the cost of printing the list;

(5)

(A) With the advice and assistance of the committee, adopt rules for the issuance of temporary permits for students and graduates of approved training programs to practice limited respiratory care under the supervision of a respiratory care practitioner or physician.

(B) Rules shall be adopted defining for the purposes of this chapter the terms "students", "limited", "supervision", and "approved training programs"; and

(6) With the advice and assistance of the committee, adopt rules for the issuance of licenses for respiratory care practitioners and put them into effect.

History: Acts 1969, No. 168, §§ 2, 6; A.S.A. 1947, §§ 72-1602, 72-1606; Acts 1987, No. 952, §§ 2, 4; 1995, No. 1094, § 2; 2019, No. 315, §§ 1643, 1644.

17-99-202. Medical board — Meetings.

(a) The Arkansas State Medical Board shall hold its regular meetings on the fourth Thursday in November and the fourth Thursday in June and shall have the power to call special meetings at such times as it deems necessary.

(b) It may meet at such places as a majority may agree upon, consulting the convenience of the board and applicants for examination and certificates.

History: Acts 1969, No. 168, § 4; A.S.A. 1947, § 72-1604.

17-99-203. Arkansas State Respiratory Care Examining Committee.

(a) There is created the Arkansas State Respiratory Care Examining Committee to assist the Arkansas State Medical Board in carrying out the provisions of this chapter.

(b) The committee shall consist of five (5) members appointed by the Governor for a term of three (3) years:

(1)

(A) One (1) member shall be a board-certified anesthesiologist and appointed by the Governor subject to confirmation by the Senate.

(B) The Governor shall appoint that member after consulting the board;

(2)

(A) One (1) member shall be a member of the American College of Chest Physicians and appointed by the Governor subject to confirmation by the Senate.

(B) The Governor shall appoint that member after consulting the board; and

(3)

(A) Three (3) members shall be licensed under this chapter and appointed by the Governor subject to confirmation by the Senate.

(B) The Governor shall appoint those members after consulting the Arkansas Society for Respiratory Care, Inc.

(c)

(1) The committee shall meet with the board at its regular meetings and assist in conducting all examinations and shall have the power to call special meetings at such times as it deems necessary.

(2) A majority of the committee shall have the power to call a special meeting.

History: Acts 1969, No. 168, §§ 3, 5; A.S.A. 1947, §§ 72-1603, 72-1605; Acts 1987, No. 952, § 3; 1995, No. 1094, § 3; 2015, No. 1100, § 42.

17-99-204. Board responsibility for finances — Compensation for committee.

(a) All fees and penalties provided for in this chapter shall be received by the Arkansas State Medical Board and shall be expended by it in furtherance of the purposes of this chapter and in accordance with the provisions of § 17-95-305.

(b) The members of the Arkansas State Respiratory Care Examining Committee may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c) It shall not be lawful for the board or any member of the board, in any manner whatever or for any purpose, to charge or obligate the State of Arkansas for the payment of any money whatever.

History: Acts 1969, No. 168, § 17; A.S.A. 1947, § 72-1617; Acts 1987, No. 952, § 15; 1997, No. 250, § 171.

17-99-205. Continuing education.

The Arkansas State Medical Board, in cooperation with the Arkansas Society for Respiratory Care, Inc., shall develop and implement rules for continuing education.

History: Acts 1969, No. 168, § 20, as added by Acts 1987, No. 952, § 16; 2001, No. 1049, § 1; 2019, No. 315, § 1645.

SUB-CHAPTER 3 - LICENSING

17-99-301. License required — Exceptions.

(a) It shall be unlawful for any person to practice respiratory care or to profess to be a respiratory care practitioner or to use any initials, letters, words, abbreviations, or insignia which indicate that he or she is a respiratory care practitioner, or to practice or to assume the duties incident to respiratory care, without first obtaining from the Arkansas State Medical Board a license authorizing the person to practice respiratory care in this state.

(b)

(1) Nothing in this chapter shall be deemed to prohibit any person licensed under any act in this state from engaging in the practice for which he or she is licensed.

(2)

(A) A licensed physician or a licensed advanced practice nurse shall be exempt from the requirement of obtaining a license to practice respiratory care.

(B) A licensed registered nurse or a licensed practical nurse qualified in and engaged in respiratory care under the supervision of a licensed physician or a licensed advanced practice nurse within the terms of their collaborative agreement shall be exempt from the requirement of obtaining a license to practice respiratory care.

(C) A licensed allied health practitioner who passes an examination that included content in one (1) or more of the functions included in the definition of respiratory care in § 17-99-102 shall not be prohibited from performing such procedures for which he or she was tested.

(3) Nothing in this chapter shall be construed to prohibit or to require a license hereunder with respect to:

(A) The rendering of services in case of an emergency or acute care situation;

(B) The administration of oxygen or other resuscitation procedures to participants in or spectators at athletic events;

(C) Any person pursuing a course of study leading to a degree or certificate in respiratory care at an accredited or approved educational program approved by the Arkansas State Respiratory Care Examining Committee, if the activities and services constitute a part of the supervised course of study and the person is designated by a title which clearly indicates the student or trainee status;

(D) Self-care by a patient or gratuitous care by a friend or family member who does not represent or hold himself or herself out to be a respiratory care practitioner;

(E) The respiratory care practitioner who demonstrates advances in the art and techniques of respiratory care learned through formalized or specialized training;

(F) Any person working in the military service or federal healthcare facilities when functioning in the course of his or her assigned duties;

(G)

(i) Any person who has demonstrated his or her competency in one (1) or more areas covered by this chapter who performs only those functions that the person is qualified by examination to perform.

(ii) The committee and the board shall have the authority to evaluate the standards of examinations and examining organizations and to reject qualification by inadequate examinations and examining organizations;

(H) Medically trained personnel employed in a designated critical access hospital licensed as such by the Department of Health; and

(I) The practice of respiratory care, when done in connection with the practice of the religious principles or tenets of any well-recognized church or denomination which relies upon prayer or spiritual means of healing.

History: Acts 1969, No. 168, § 15; A.S.A. 1947, § 72-1615; Acts 1987, No. 952, § 13; 1995, No. 1094, § 4; 2001, No. 1049, § 3.

17-99-302. Qualifications and examination of applicants — Fees — Waiver.

(a) The Arkansas State Medical Board shall register as a respiratory care practitioner and shall issue a license to:

(1) Any person who satisfactorily passes the examination provided for in this chapter, and who otherwise meets the requirements for qualification contained herein and pays a fee not to exceed one hundred fifty dollars ($150);

(2) Any person who furnishes sufficient and satisfactory written evidence to the Arkansas State Medical Board that the person has received registration or certification, or both, by the National Board for Respiratory Care, Inc. or its successor organization and who, at the time of his or her application, shall pay the Arkansas State Medical Board a fee not to exceed one hundred fifty dollars ($150); and

(3)

(A) Any person, whether or not he or she has passed the examination provided for in this chapter, who through a notarized affidavit submitted to the Arkansas State Medical Board by January 1, 2002, demonstrates that he or she has been engaged in the practice of respiratory care for at least two (2) years during the three (3) consecutive years before September 1, 2001, and who submits an application and a fee not to exceed one hundred fifty dollars ($150).

(B) Any person licensed under this provision must complete the entry level requirements for certification in respiratory care and, no later than January 1, 2005, must pass the examination provided for in this chapter.

(b) Each applicant shall:

(1) Be at least eighteen (18) years of age;

(2) Have been awarded a high school diploma or its equivalent;

(3) Have satisfactorily completed training in a respiratory care program which has been approved by the Arkansas State Respiratory Care Examining Committee, to include adequate instruction in basic medical science, clinical science, and respiratory care theory and procedures; and

(4) Have passed an examination approved by the Arkansas State Medical Board and the committee, unless exempted by other provisions of this chapter.

(c) All examinations of applicants for a license to practice respiratory care shall be held in designated areas of the state at a time and place published by the Arkansas State Medical Board.

(d) Applicants shall be given written examinations on the following subjects:

(1) Clinical data;

(2) Equipment; and

(3) Therapeutic procedures.

(e)

(1) A fee not to exceed the prevailing rate set by the National Board for Respiratory Care, Inc., or its successor organization must accompany the application.

(2) The Arkansas State Medical Board shall not increase or set assessed fees exceeding the amounts in this section.

(3) If the Arkansas State Medical Board determines in its discretion that a reduction is in the best interest of the state, the Arkansas State Medical Board may reduce fees below the amounts in this section through the administrative rule process and by the approval of the Governor and either the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

History: Acts 1969, No. 168, §§ 7, 10; A.S.A. 1947, §§ 72-1607, 72-1610; Acts 1987, No. 952, §§ 5, 8; 1993, No. 1219, § 15; 1995, No. 1094, § 5; 2001, No. 1049, §§ 4-6; 2019, No. 990, § 115; 2023, No. 79, § 6.

17-99-303. Issuance and recording.

(a) The Arkansas State Medical Board shall register as a respiratory care practitioner each applicant who provides evidence of his or her fitness for licensure under the terms of this chapter.

(b) It shall issue to each person registered a license, which shall be prima facie evidence of the right of the person to practice respiratory care, subject to the conditions and limitations of this chapter.

(c) Proof of licensure must be made upon request.

(d)

(1) Whenever the board determines for any reason not to issue a license, it shall enter an order denying the application.

(2) Whenever the board determines for any reason to suspend, revoke, or refuse to renew a license, it shall enter an order taking that action.

(e) All review proceedings shall be governed by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History: Acts 1969, No. 168, § 8; A.S.A. 1947, § 72-1608; Acts 1987, No. 952, § 6; 1995, No. 1094, § 6.

17-99-304. Reciprocity.

(a) A legally licensed practitioner who has been issued a license to practice respiratory care in another state or territory whose requirements for registration and licensure were at the time of his or her registration or licensure equal to the requirements contained in this chapter may be registered and issued a license by the Arkansas State Medical Board if the state or territory from which the applicant comes accords a similar privilege of registration and licensure to persons registered and licensed in the State of Arkansas by the board.

(b) The issuance of the license by reciprocity by the board shall be at the sole discretion of the board, and the board may provide rules governing such admission as it may deem necessary or desirable.

History: Acts 1969, No. 168, § 11; A.S.A. 1947, § 72-1611; Acts 1987, No. 952, § 9; 2019, No. 315, § 1646.

17-99-305. Temporary permits.

(a) In cases of emergency, the Executive Director of the Arkansas State Medical Board may issue a temporary permit without examination to practice respiratory care to persons who are not licensed in other states, but who otherwise meet the qualifications for licensure set out in this chapter.

(b) Such emergency temporary license shall expire at the date of the next Arkansas State Medical Board meeting, unless the board ratifies or extends the action of the executive director.

History: Acts 1969, No. 168, § 9; A.S.A. 1947, § 72-1609; Acts 1987, No. 952, § 7; 1995, No. 1094, § 7; 2017, No. 69, § 7.

17-99-306. Annual registration — Failure to reregister.

(a)

(1) A license or reregistration fee not to exceed fifty dollars ($50.00) shall be paid to the Arkansas State Medical Board by each respiratory care practitioner who holds a license to practice respiratory care in the State of Arkansas.

(2) The reregistration fee shall be paid before or during the birth month of the license holder beginning in 1998, and each year thereafter. During the implementation year of 1998, fees shall be prorated.

(3) Failure to reregister and pay the fee by the last day of the birth month of the license holder shall cause the license of any person so failing to reregister to expire automatically.

(b)

(1) Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty not to exceed fifty dollars ($50.00) for each year or part of a year it has been delinquent.

(2) Any person who shall fail to reregister and pay the annual license fee for five (5) or more consecutive years shall be required to be reexamined by the board before the license may be reinstated.

(c)

(1) The board shall not increase or set assessed fees exceeding the amounts in this section.

(2) If the board determines in its discretion that a reduction is in the best interest of the state, the board may reduce fees below the amounts in this section through the administrative rule process and by the approval of the Governor and either the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

History: Acts 1969, No. 168, § 12; A.S.A. 1947, § 72-1612; Acts 1987, No. 952, § 10; 1995, No. 1094, § 8; 1997, No. 313, § 3; 2023, No. 79, § 7.

17-99-307. Denial, suspension, or revocation — Grounds.

The Arkansas State Medical Board, after due notice and hearing, may revoke, suspend, or refuse to renew any license or permit or place on probation or otherwise reprimand a licensee or permit holder or deny a license to an applicant who:

(1) Is habitually drunk or who is addicted to the use of narcotic drugs;

(2) Is, in the judgment of the board, guilty of immoral or unprofessional conduct;

(3) [Repealed.]

(4) Is guilty, in the judgment of the board, of gross negligence in his or her practice as a respiratory care practitioner;

(5) Has obtained or attempted to obtain registration by fraud or material misrepresentation;

(6) Has treated or undertaken to treat ailments of human beings other than by respiratory care and as authorized by this chapter or who has undertaken to practice independently of the prescription and direction of a licensed physician; or

(7) Has been found to have violated any provisions of this chapter or rules of the Arkansas State Respiratory Care Examining Committee or board.

History: Acts 1969, No. 168, § 13; A.S.A. 1947, § 72-1613; Acts 1987, No. 952, § 11; 1995, No. 1094, § 9; 2019, No. 315, § 1647; 2019, No. 990, § 116.

17-99-308. Denial, suspension, or revocation — Procedure.

(a) The procedure on all refusals, revocations, and suspensions of registration shall be prescribed by the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

(b)

(1) Any person may file a complaint with the Arkansas State Medical Board against any person having a license to practice respiratory care in this state charging the person with having violated the provisions of § 17-99-307.

(2) The complaint shall set forth a specification of charges in sufficient detail so as to disclose to the accused fully and completely the alleged acts of misconduct for which he or she is charged.

(3) When the complaint is filed, the Executive Director of the Arkansas State Medical Board shall mail a copy to the accused by registered mail at his or her last address of record, with a written notice of the time and place of hearing, advising him or her that he or she may be present in person and by counsel, if he or she so desires, to offer evidence and be heard in his or her defense.

(c)

(1) At the time and place fixed for a hearing before the board, the board shall receive evidence upon the subject matter under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his defense.

(2) The board shall not be bound by strict or technical rules of evidence but shall consider all evidence fully and fairly. However, all oral testimony considered by the board must be under oath.

(d)

(1) Appeal may be had by either of the parties from the decision of the board as now provided by law.

(2) All evidence considered by the board shall be reduced to writing and available for the purposes of appeal.

(e) Nothing in this section shall be construed so as to deprive any person of his or her rights without full, fair, and impartial hearing.

History: Acts 1969, No. 168, §§ 13, 14; A.S.A. 1947, §§ 72-1613, 72-1614; Acts 1987, No. 952, § 12.

17-99-309. Out-of-state licenses.

(a) A legally licensed practitioner who has been issued a license to practice respiratory care in another state or territory whose requirements for licensure were equal at the time of his or her licensure to the requirements contained in this chapter may be licensed by the Arkansas State Medical Board, provided that the state or territory from which the applicant comes accords a similar privilege of registration and licensure to persons licensed in the State of Arkansas by the board.

(b) The issuance of a license by reciprocity by the board shall be at the sole discretion of the board.

History: Acts 1995, No. 1094, § 10.

17-99-310. Medical director — Powers and duties.

A qualified medical director shall:

(1) Be readily available to respiratory care practitioners employed by or providing services for the organization he or she directs; and

(2) Establish a policy that prohibits any person from ordering respiratory care for a patient, except a physician who has medical responsibility for the patient.

History: Acts 1995, No. 1094, § 11.

PHYSICIAN ASSISTANT COMMITTEE

17-95-801. Physician Assistant Committee — Members.

(a)

(1) The Physician Assistant Committee is created with the Arkansas State Medical Board.

(2) The committee shall consist of five (5) members as follows:

(A) Three (3) members who shall be members of the board.

(i) Two (2) members as described in this subdivision (a)(2)(A) shall be physicians.

(ii) One (1) member as described in this subdivision (a)(2)(A) shall be a physician assistant; and

(B) Two (2) physician assistant members selected by the board from a list of physician assistants nominated by the Arkansas Academy of Physician Assistants, Inc.

(b)

(1)

(A) Committee members who are physician assistants shall serve three-year terms.

(B) Committee members who are physician assistants shall not serve more than two (2) consecutive terms.

(2) A physician assistant committee member shall serve until a successor is appointed by the board.

(3) If a vacancy occurs among the committee members who are physician assistants, the board shall appoint a new member from a list of three (3) physician assistants nominated by the Arkansas Academy of Physician Assistants, Inc., to fill the vacancy.

(c)

(1) The committee shall elect a chair with powers and duties the committee shall fix.

(2) The chair shall serve a two-year term.

(3) A chair may be elected for no more than two (2) consecutive terms.

(d)

(1) A quorum of the committee shall be three (3) members.

(2) The committee shall hold a meeting at least quarterly and at other times the committee considers advisable to review applications for licensure or renewal and for approval of the protocol between the physician assistant and the supervising physician.

(e)

(1) The committee members who are physician assistants shall serve without remuneration.

(2) However, if funds are available, the committee members who are physician assistants may receive expense reimbursement and stipends in accordance with §§ 25-16-902 and 25-16-903, as follows:

(A) Their actual expenses while attending regular and special meetings of the committee; and

(B) A per diem allowance when in attendance at regular or special meetings of the committee.

(f) The members of the committee who are members of the board shall receive remuneration as now provided to members of the board.

History: Acts 2011, No. 1207, § 1; 2021, No. 634, § 5.

17-95-802. Duties of Physician Assistant Committee.

The Physician Assistant Committee shall review and make recommendations at the request of the Arkansas State Medical Board regarding all matters relating to physician assistants, including without limitation:

(1) Applications for licensure and renewal;

(2) Disciplinary proceedings; and

(3) Any other issues pertaining to the regulation and practice of physician assistants.

History: Acts 2011, No. 1207, § 1; 2021, No. 634, § 6.

PHYSICIAN ASSISTANTS

17-105-101. Definitions.

As used in this chapter:

(1) "Health benefit plan" means a plan, policy, contract, certificate, agreement, or other evidence of coverage for healthcare services offered or issued by a healthcare insurer in this state;

(2)

(A) "Healthcare insurer" means an entity that is subject to state insurance regulation and provides health insurance in this state.

(B) "Healthcare insurer" includes:

(i) An insurance company;

(ii) A hospital and medical service corporation;

(iii) A health maintenance organization;

(iv) A risk-based provider organization; and

(v) Any sponsor of a nonfederal self-funded governmental plan;

(3)

(A) "Physician assistant" means a dependent healthcare professional qualified by academic and clinical education and licensed by the Arkansas State Medical Board to provide healthcare services and who has:

(i) Graduated from a program for the education and training of physician assistants that has been approved by the Accreditation Review Commission on Education for the Physician Assistant, Inc. or its successors; and

(ii) Passed the certifying examination administered by the National Commission on Certification of Physician Assistants.

(B) A physician assistant:

(i) Provides healthcare services under the supervision of a physician; and

(ii) Works under a delegation agreement with a physician;

(4) "Supervising physician" means a doctor of medicine or doctor of osteopathy licensed by the board who supervises physician assistants; and

(5) "Supervision" means overseeing the activities of and accepting responsibility for the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, electronic, or other telecommunication device. Supervision of each physician assistant by a physician or physicians shall be continuous.

History: Acts 1999, No. 851, § 1; 2019, No. 386, § 61; 2021, No. 634, § 7; 2023, No. 270, § 7; 2023, No. 303, § 1.

17-105-102. Qualifications for licensure.

(a) Except as otherwise provided in this chapter, an individual must be licensed by the Arkansas State Medical Board before the individual may practice as a physician assistant.

(b) The board may grant a license as a physician assistant to an applicant who:

(1) Submits an application on forms approved by the board;

(2) Pays the appropriate fees as determined by the board;

(3) Has successfully completed an educational program for physician assistants accredited by the Accreditation Review Commission on Education for the Physician Assistant or by its successor agency and has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;

(4) Certifies that he or she is mentally and physically able to engage safely in practice as a physician assistant;

(5) Has no licensure, certification, or registration as a physician assistant under current discipline, revocation, suspension, or probation for cause resulting from the applicant's practice as a physician assistant, unless the board considers the condition and agrees to licensure;

(6) [Repealed.]

(7) Submits to the board any other information the board deems necessary to evaluate the applicant's qualifications;

(8) Has been approved by the board;

(9) Is at least twenty-one (21) years of age; and

(10) After July 1, 1999, has at least a bachelor's degree in some field of study from a regionally accredited college or university, unless the applicant has:

(A) Prior service as a military corpsman and is a graduate of a physician assistant education program recognized by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or the applicant is currently certified by the National Commission on Certification of Physician Assistants;

(B) Was serving as a physician assistant in a federal facility located in the State of Arkansas on or after July 1, 1999, and who is a graduate of a physician assistant education program recognized by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs;

(C) Was licensed in good standing on June 30, 1999, by the board; or

(D) Was enrolled on or before July 1, 1999, in a physician assistant program recognized by the Commission on Accreditation of Allied Health Education Programs.

History: Acts 1999, No. 851, § 2; 2019, No. 263, § 1; 2019, No. 990, § 130; 2021, No. 634, § 8.

17-105-103. Graduate license — Temporary license.

(a) The Arkansas State Medical Board may grant a graduate license to an applicant who meets the qualifications for licensure, except that the applicant has not yet taken the national certifying examination or the applicant has taken the national certifying examination and is awaiting the results.

(b) A graduate license is valid:

(1) For one (1) year from the date of issuance;

(2) Until the results of an applicant's examination are available; or

(3) Until the board makes a final decision on the applicant's request for licensure, whichever comes first.

(c) The board may extend a graduate license upon a majority vote of the board members for a period not to exceed one (1) year. Under no circumstances may the board grant more than one (1) extension of a graduate license.

(d) A temporary license may be granted to an applicant who meets all the qualifications for licensure but is awaiting the next scheduled meeting of the board.

History: Acts 1999, No. 851, § 3.

17-105-104. Inactive license.

Any physician assistant who notifies the Arkansas State Medical Board in writing on forms prescribed by the board may elect to place his or her license on an inactive status. A physician assistant with an inactive license shall be excused from payment of renewal fees and shall not practice as a physician assistant. Any licensee who engages in practice while his or her license is lapsed or on inactive status shall be considered to be practicing without a license, which shall be grounds for discipline under § 17-105-113. A physician assistant requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to meet the criteria for renewal as specified in § 17-105-105.

History: Acts 1999, No. 851, § 4.

17-105-105. Renewal.

Upon notification from the Arkansas State Medical Board, each person who holds a license as a physician assistant in this state shall renew the license by:

(1) Submitting the appropriate fee as determined by the board;

(2) Completing the appropriate forms; and

(3) Meeting any other requirements set forth by the board.

History: Acts 1999, No. 851, § 5.

17-105-106. Exemption from licensure.

This chapter does not require licensure of:

(1) A physician assistant student enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant or by its successor agency;

(2) A physician assistant employed in the service of the United States Government while performing duties incident to that employment;

(3) Technicians, other assistants, or employees of physicians who perform delegated tasks in the office of a physician but who are not rendering services as a physician assistant or identifying themselves as a physician assistant;

(4) A physician assistant in the service of the Department of the Military or the Arkansas National Guard, or both. These physician assistants shall be allowed to perform their physician assistant practice duties, including prescribing, in the same manner as they would if federalized by the United States Government;

(5) A physician assistant who is temporarily transiting through the State of Arkansas while caring for a patient, provided that he or she remains under the supervision of his or her supervising physician; or

(6) A physician assistant providing services through a program in partnership with federal Innovative Readiness Training if the physician assistant has obtained a license to practice from another state, commonwealth, territory, or the District of Columbia.

History: Acts 1999, No. 851, § 6; 2017, No. 205, § 10; 2019, No. 910, § 5543; 2021, No. 634, § 9.

17-105-107. Scope of authority — Delegatory authority.

(a)

(1) A physician assistant may provide healthcare services a physician assistant is licensed or otherwise authorized to perform under an agreement with a supervising physician.

(2) A physician assistant may perform duties and responsibilities, including prescribing, ordering, and administering drugs and medical devices, that are delegated by a supervising physician under an agreement determined at the practice level.

(3) A supervising physician shall not delegate to a physician assistant the duty or responsibility to perform or induce an abortion.

(b)

(1) Physician assistants shall be considered the agents of their supervising physicians in the performance of all practice-related activities, including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

(2) A physician assistant may provide medical services delegated by a supervising physician when the service is within the skills of the physician assistant, forms a component of the supervising physician's scope of practice, and is conducted under the supervision of the supervising physician.

(c) Physician assistants may perform healthcare services in any setting authorized by the supervising physician in accordance with any applicable facility policy.

(d) A physician assistant may pronounce death and may authenticate with his or her signature a form that may be authenticated by a supervising physician's signature as authorized under § 17-80-120.

History: Acts 1999, No. 851, § 7; 2021, No. 634, § 10.

17-105-108. Prescriptive authority.

(a)

(1) Physicians supervising physician assistants may delegate prescriptive authority to physician assistants to include receiving, prescribing, ordering, and administering Schedules II-V controlled substances as described in the Uniform Controlled Substances Act, § 5-64-101 et seq., and 21 C.F.R. Part 1300, all legend drugs, and all nonschedule prescription medications and medical devices.

(2) A physician assistant's prescriptive authority extends to drugs listed in Schedule II only if the prescription is for:

(A) An opioid, if the prescription is only for a five-day period or less; or

(B) A stimulant, if the prescription meets the following criteria:

(i) The prescription was originally initiated by a physician;

(ii) The physician has evaluated the patient within six (6) months before the physician assistant issues a prescription; and

(iii) The prescription by the physician assistant is to treat the same condition as the original prescription.

(b) A physician assistant may prescribe hydrocodone combination products reclassified from Schedule III to Schedule II as of October 6, 2014, if authorized by the physician assistant's supervising physician and in accordance with other requirements of this section.

(c) At no time shall a physician assistant's level of prescriptive authority exceed that of the supervising physician.

(d) Physician assistants who prescribe controlled substances shall register with the United States Drug Enforcement Administration as part of the United States Drug Enforcement Administration's Mid-Level Practitioner Registry, 21 C.F.R. Part 1300, 58 FR 31171-31175, and the Controlled Substances Act.

(e) The Arkansas State Medical Board shall promptly adopt rules concerning physician assistants that are consistent with the board's rules governing the prescription of dangerous drugs and controlled substances by physicians.

History: Acts 1999, No. 851, § 8; 2015, No. 529, § 2; 2021, No. 634, § 10.

17-105-109. Supervision.

(a) Supervision of physician assistants shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place that the services are rendered.

(b) It is the obligation of each team of physicians and physician assistants to ensure that:

(1) The physician assistant's scope of practice is identified;

(2) The delegation of medical task is appropriate to the physician assistant's level of competence;

(3) The relationship and access to the supervising physician is defined; and

(4) A process of evaluation of the physician assistant's performance is established.

(c) The physician assistant and supervising physician may designate back-up physicians who are agreeable to supervise the physician assistant during the absence of the supervising physician.

History: Acts 1999, No. 851, § 9.

17-105-110. Supervising physician.

A physician desiring to supervise a physician assistant must:

(1) Be licensed in this state; and

(2)

(A) Enter into and maintain a written agreement with the physician assistant.

(B) The agreement shall state that the physician shall:

(i) Exercise supervision over the physician assistant in accordance with this section and rules adopted by the Arkansas State Medical Board; and

(ii) Retain professional and legal responsibility for the care provided by the physician assistant.

(C) The agreement shall be signed by the physician and the physician assistant and updated annually.

History: Acts 1999, No. 851, § 10; 2021, No. 634, § 11.

17-105-111. Notification.

A physician assistant shall notify the Arkansas State Medical Board of any changes or additions in supervising physicians within ten (10) calendar days.

History: Acts 1999, No. 851, § 11; 2021, No. 634, § 12.

17-105-112. Exclusions of limitations of employment.

Nothing in this chapter shall be construed to limit the employment arrangement of a physician assistant licensed under this chapter.

History: Acts 1999, No. 851, § 12.

17-105-113. Violation.

Following the exercise of due process, the Arkansas State Medical Board may discipline any physician assistant who:

(1) Fraudulently or deceptively obtains or attempts to obtain a license;

(2) Fraudulently or deceptively uses a license;

(3) Violates any provision of this chapter or any rules adopted by the board pertaining to this chapter or any other laws or rules governing licensed healthcare professionals;

(4) Is convicted of a felony listed under § 17-3-102;

(5) Is a habitual user of intoxicants or drugs to such an extent that he or she is unable to safely perform as a physician assistant;

(6) Has been adjudicated as mentally incompetent or has a mental condition that renders him or her unable to safely perform as a physician assistant;

(7) Represents himself or herself as a physician;

(8) Is negligent in practice as a physician assistant;

(9) Demonstrates professional incompetence;

(10) Violates patient confidentiality except as required by law;

(11) Engages in conduct likely to deceive, defraud, or harm the public;

(12) Engages in unprofessional or immoral conduct;

(13) Prescribes, sells, administers, distributes, orders, or gives away a drug classified as a controlled substance for other than medically accepted therapeutic purposes;

(14) Has been disciplined by this state or another state or jurisdiction for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as defined in this section; or

(15) Fails to cooperate with an investigation conducted by the board.

History: Acts 1999, No. 851, § 13; 2019, No. 315, § 1673; 2019, No. 990, § 131; 2021, No. 634, § 13.

17-105-114. Disciplinary authority.

Upon finding that a physician assistant has committed any offense described in § 17-105-113, the Arkansas State Medical Board may:

(1) Refuse to grant a license;

(2) Administer a public or private reprimand;

(3) Revoke, suspend, limit, or otherwise restrict a license;

(4) Require a physician assistant to submit to the care, counseling, or treatment of a physician or physicians designated by the board;

(5) Suspend enforcement of its finding thereof and place the physician assistant on probation with the right to vacate the probationary order for noncompliance; or

(6) Restore or reissue, at its discretion, a license and impose any disciplinary or corrective measure which it may have imposed.

History: Acts 1999, No. 851, § 14.

17-105-115. Title and practice protection.

(a) Any person not licensed under this chapter is guilty of a Class A misdemeanor and is subject to penalties applicable to the unlicensed practice of medicine if he or she:

(1) Holds himself or herself out as a physician assistant;

(2) Uses any combination or abbreviation of the term "physician assistant" to indicate or imply that he or she is a physician assistant; or

(3) Acts as a physician assistant without being licensed by the Arkansas State Medical Board.

(b) An unlicensed physician shall not be permitted to use the title of physician assistant or to practice as a physician assistant unless he or she fulfills the requirements of this chapter.

History: Acts 1999, No. 851, § 15; 2021, No. 634, § 14.

17-105-116. Identification requirements.

Physician assistants licensed under this chapter shall keep their license available for inspection at their primary place of practice and when engaged in their professional activities shall wear a name tag identifying themselves as a physician assistant.

History: Acts 1999, No. 851, § 16; 2021, No. 634, § 15.

17-105-117. Rulemaking authority.

(a) The Arkansas State Medical Board shall promulgate rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., that are reasonable and necessary for the performance of the various duties imposed upon the board by this chapter, including, but not limited to:

(1) Establishing license renewal dates; and

(2) Setting the level of liability coverage.

(b) The board may levy the following fees:

(1) Physician assistant application for licensure fee, eighty dollars ($80.00);

(2) Initial application fee for the physician employer, fifty dollars ($50.00);

(3) Physician assistant annual relicensure fee, fifty dollars ($50.00);

(4) Physician assistant delinquent licensure fee, twenty-five dollars ($25.00) for each delinquent year or part thereof;

(5) Physician assistant application for graduate or temporary licensure fee, ten dollars ($10.00); and

(6) Physician assistant one-time extension graduate licensure fee, forty dollars ($40.00).

(c) The board may appoint a physician assistant advisory committee to assist in the administration of this chapter.

(d)

(1) The board shall not increase or set assessed fees exceeding the amounts in this section.

(2) If the board determines in its discretion that a reduction is in the best interest of the state, the board may reduce fees below the amounts in this section through the administrative rule process and by the approval of the Governor and either the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

History: Acts 1999, No. 851, § 17; 2019, No. 315, § 1674; 2023, No. 79, § 8

.17-105-118. Regulation by Arkansas State Medical Board.

The Arkansas State Medical Board shall administer the provisions of this chapter under such procedures as it considers advisable and may adopt rules that are reasonable and necessary to implement the provisions of this chapter. Further, it is the intent of the General Assembly that the board on behalf of the General Assembly shall make rules clarifying any ambiguities or related matters concerning this chapter, which may not have been specifically addressed.

History: Acts 1999, No. 851, § 18.

17-105-119. "Good Samaritan" provision.

Physician assistants shall be subject to the "Good Samaritan" provisions embodied in § 17-95-101.

History: Acts 1999, No. 851, § 19.

17-105-120. Retired physician assistants.

(a) Retired physician assistants may practice their medical services under the supervision of a licensed physician and shall be subject to the same provisions as a retired physician or surgeon would be pursuant to § 17-95-106.

(b) Retired physician assistants practicing under this provision must continue to be licensed by the Arkansas State Medical Board and must practice their medical skills only under the supervision of a licensed physician.

History: Acts 1999, No. 851, § 20.

17-105-121. Physician assistant employment — Uniform Classification Plan.

(a) The Office of Personnel Management shall establish and maintain a position classification of physician assistant. The initial position classification shall mirror the Veterans Health Administration Directive 10-95-020 of March 3, 1995, and the United States Department of Veterans Affairs regulation as embodied in:

(1) MP-5, Part II, Chapter 2, Change 2, Appendix H; and

(2) MP-5, Part II, Chapter 5, Change 5.

(b) Modifications or changes in the future to the state position classification of physician assistant shall only be made based upon the concurrence of the physician assistant advisory committee.

History: Acts 1999, No. 851, § 21; 2019, No. 910, § 6077.

17-105-122. Physician assistant patient care orders.

(a) Patient care orders generated by a physician assistant shall be construed as having the same medical, health, and legal force and effect as if the orders were generated by the physician assistant's supervising physician.

(b) The orders shall be complied with and carried out as if the orders had been issued by the physician assistant's supervising physician.

History: Acts 1999, No. 851, § 22; 2021, No. 634, § 16.

17-105-123. Medical malpractice — Professional and legal liability for actions.

Physician assistants shall be covered under the provisions regarding medical malpractice and legal liability as such applies to their supervising physician as embodied in §§ 16-114-201 — 16-114-203 and 16-114-205 — 16-114-209.

History: Acts 1999, No. 851, § 23.

17-105-124. Participation in disaster and emergency care.

(a) A physician assistant may render care within his or her scope of practice when responding to a need for medical care created by an emergency or a state or local disaster if the physician assistant is:

(1) Licensed in this state;

(2) Licensed or authorized to practice in another state or territory; or

(3) Credentialed as a physician assistant by a federal employer.

(b)

(1) A physician assistant who voluntarily and gratuitously, other than in the ordinary course of his or her employment or practice, renders emergency medical assistance is not liable for civil damages for personal injuries that result from acts or omissions of the physician assistant that may constitute ordinary negligence.

(2) The immunity granted by subdivision (b)(1) of this section does not apply to acts or omissions of a physician assistant that constitute gross, willful, or wanton negligence.

History: Acts 2021, No. 634, § 17.

17-105-125. Insurer billing and payment.

(a) If authorized by the supervising physician, a physician assistant shall be:

(1) Identified as the treating provider in billing and claims processes when the physician assistant delivered the medical services to the patient; and

(2) Allowed to file claims as the billing provider for medical services delivered by the physician assistant to a patient that:

(A) Is a Medicaid beneficiary; or

(B) Has a health benefit plan provided by a healthcare insurer.

(b) Under this section, a health benefit plan provided by a healthcare insurer or the Arkansas Medicaid Program shall not require the physical presence of the supervising physician as provided in § 17-105-101(5).

History: Acts 2023, No. 303, § 2.

RADIOLOGIST ASSISTANTS AND RADIOLOGY PRACTITIONER ASSISTANTS

17-106-201. Radiologist assistant and radiology practitioner assistant — License required.

(a) The Arkansas State Medical Board shall grant a license to practice as a radiologist assistant and a radiology practitioner assistant to a qualified applicant who complies with the rules for licensure adopted under this subchapter.

(b) An individual shall not practice as a radiologist assistant or a radiology practitioner assistant unless the person is licensed as a radiologist assistant or a radiology practitioner assistant by the board.

History: Acts 2009, No. 1457, § 1.

17-106-202. Rules.

The Arkansas State Medical Board shall adopt rules to:

(1) Define the qualifications for licensure of a radiologist assistant or a radiology practitioner assistant;

(2)

(A) Define the services that may be performed by a radiologist assistant or a radiology practitioner assistant, and the level of supervision required for the performance of a radiologist assistant or a radiology practitioner assistant.

(B) The rules adopted under subdivision (2)(A) of this section shall specify that a radiologist assistant or radiology practitioner assistant shall not interpret images, make diagnoses, or prescribe medications or therapies;

(3)

(A) Define the qualifications of a supervising physician.

(B) The rules adopted under subdivision (3)(A) of this section shall specify the manner and scope of supervision that a licensed physician must employ when supervising a radiologist assistant or a radiology practitioner.

(C)

(i) Only a physician licensed to practice medicine in the State of Arkansas under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq. who resides in Arkansas or in an immediately contiguous county of an adjacent state and who is a diagnostic radiologist certified by or eligible for certification by the American Board of Radiology or an equivalent board approved by the Arkansas State Medical Board may utilize the services of a radiologist assistant or a radiology practitioner assistant.

(ii) However, a physician may utilize the services of a radiologist assistant or a radiology practitioner assistant under subdivision (3)(C)(i) of this section only if the physician supervises the radiologist assistant or radiology practitioner assistant;

(4) Establish requirements for annual renewal of the license of a radiologist assistant and a radiology practitioner assistant;

(5) Establish continuing education requirements for renewal of licensure for a radiologist assistant and a radiology practitioner assistant; and

(6) Establish a program for probation of a radiologist assistant and a radiology practitioner assistant.

History: Acts 2009, No. 1457, § 1.

17-106-203. Fee.

The Arkansas State Medical Board shall charge a licensure application fee not to exceed the administrative and disciplinary costs incurred by the board in administering the licensure program under this subchapter.

History: Acts 2009, No. 1457, § 1.

17-106-204. Penalties.

If a radiologist assistant or a radiology practitioner assistant is found by the Arkansas State Medical Board to have violated the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., or the rules adopted under this subchapter, the board may impose one (1) or more of the following penalties:

(1) Suspension or revocation of the license to practice as a radiologist assistant or radiology practitioner assistant;

(2) A fine not to exceed one thousand dollars ($1,000) per violation;

(3) Recovery from the radiologist assistant or the radiology practitioner assistant of the costs of an investigation and hearing if the radiologist assistant or the radiology practitioner assistant is found to have violated the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., or the rules adopted under this subchapter;

(4) Placement of the radiologist assistant or the radiology practitioner assistant under probation; and

(5) A reprimand.

History: Acts 2009, No. 1457, § 1.

MEDICAL CORPORATION ACT

4-29-301. Title.

This subchapter may be cited as the "Medical Corporation Act".

History: Acts 1961, No. 179, § 1; A.S.A. 1947, § 64-1701; Acts 1997, No. 306, § 2.

4-29-302. Definitions.

As used in this subchapter:

(1) "Beneficial owner" means an individual who is the grantor and sole trustee of a revocable living trust wherein the individual reserves the unrestricted right to revoke the trust;

(2) "Foreign medical corporation" means a corporation:

(A) Organized under laws other than the laws of this state; and

(B) In which all officers, directors, and shareholders of the corporation are licensed to practice medicine in the state of incorporation;

(3) "Professional service" means any type of professional service that may be legally performed only pursuant to a license or other legal personal authorization, for example: the personal service rendered by certified public accountants, architects, engineers, dentists, doctors, and attorneys at law; and

(4) "Shareholder" means either:

(A) The person in whose name shares are registered in the records of a corporation; or

(B) The beneficial owner of shares of a revocable living trust where the shares are registered in the records of the corporation in the names of the revocable living trust.

History: Acts 1961, No. 179, § 1; A.S.A. 1947, § 64-1701; Acts 1997, No. 306, § 2; 2013, No. 135, § 1.

4-29-303. Application of Arkansas Business Corporation Act.

(a) The Arkansas Business Corporation Act of 1987, § 4-27-101 et seq., shall be applicable to such corporations, including their organization, except that the required number of incorporators of a medical corporation shall be one (1) or more, and they shall enjoy the powers and privileges and be subject to the duties, restrictions, and liabilities of other corporations, except so far as the same may be limited or enlarged by this subchapter.

(b) If any provision of this subchapter conflicts with the Arkansas Business Corporation Act of 1987, § 4-27-101 et seq., this subchapter shall take precedence.

History: Acts 1961, No. 179, § 3; 1970 (1st Ex. Sess.), No. 13, § 4; A.S.A. 1947, § 64-1703; Acts 1999, No. 480, § 1.

4-29-304. Physician-patient relationship unaltered.

This subchapter does not alter any law applicable to the relationship between a physician furnishing medical service and a person receiving the service, including liability arising out of the service.

History: Acts 1961, No. 179, § 15; A.S.A. 1947, § 64-1715.

4-29-305. Formation of corporation — Employee licensing required.

(a) One (1) or more persons licensed pursuant to the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., may associate to form a corporation pursuant to the Arkansas Business Corporation Act of 1987, § 4-27-101 et seq., to own, operate, and maintain an establishment for the study, diagnosis, and treatment of human ailments and injuries, whether physical or mental, and to promote medical, surgical, and scientific research and knowledge.

(b) However, medical or surgical treatment, consultation, or advice may be given by employees of the corporation only if they are licensed pursuant to the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

History: Acts 1961, No. 179, § 2; 1970 (1st Ex. Sess.), No. 13, § 3; A.S.A. 1947, § 64-1702; Acts 2001, No. 728, § 3.

4-29-306. Corporate name.

(a)

(1) The corporate name may contain the names of one (1) or more of the shareholders.

(2) However, the name of a person who is not employed by the corporation shall not be included in the corporate name, except that the name of a deceased shareholder may continue to be included in the corporate name for one (1) year following the decease of the shareholder.

(b) The corporate name shall end with the word "Chartered", or the word "Limited", or the abbreviation "Ltd.", or the words "Professional Association", or the abbreviation "P.A.".

History: Acts 1961, No. 179, § 4; 1965, No. 435, § 1; A.S.A. 1947, § 64-1704.

4-29-307. Officers, directors, and shareholders.

(a) All of the officers, directors, and shareholders of a corporation subject to this subchapter shall at all times be persons licensed pursuant to the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

(b) No person who is not so licensed shall have any part in the ownership, management, or control of the corporation, nor may any proxy to vote any shares of the corporation be given to a person who is not so licensed.

History: Acts 1961, No. 179, § 14; A.S.A. 1947, § 64-1714.

4-29-308. Employees.

Each individual employee licensed pursuant to the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., who is employed by a corporation subject to this subchapter shall remain subject to reprimand or discipline for his or her conduct under the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

History: Acts 1961, No. 179, § 16; A.S.A. 1947, § 64-1716.

4-29-309. Certificate of registration — Issuance, renewal, etc.

(a) No corporation shall open, operate, or maintain an establishment for any of the purposes set forth in § 4-29-305 without a certificate of registration from the Arkansas State Medical Board.

(b) Application for the registration shall be made to the board in writing and shall contain the name and address of the corporation and such other information as may be required by the board.

(c)

(1) Upon receipt of the application, the board shall make an investigation of the corporation.

(2) If the board finds that the incorporators, officers, directors, and shareholders are each licensed pursuant to the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and if no disciplinary action is pending before the board against any of them, and if it appears that the corporation will be conducted in compliance with law and the regulations of the board, the board shall issue, upon payment

of a registration fee of twenty-five dollars ($25.00), a certificate of registration which shall remain effective until January 1 following the date of the registration.

(d) Upon written application of the holder, accompanied by a fee of ten dollars ($10.00), the board shall annually renew the certificate of registration if the board finds that the corporation has complied with its rules and the provisions of this subchapter.

(e) The certificate of registration shall be conspicuously posted upon the premises to which it is applicable.

(f) In the event of a change of location of the registered establishment, the board, in accordance with its rules, shall amend the certificate of registration so that it shall apply to the new location.

(g) No certificate of registration shall be assignable.

(h)

(1) The board shall not increase or set assessed fees exceeding the amounts in this section.

(2) If the board determines in its discretion that a reduction is in the best interest of the state, the board may reduce fees below the amounts in this section through the administrative rule process and by the approval of the Governor and either the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

History: Acts 1961, No. 179, §§ 5-9; A.S.A. 1947, §§ 64-1705 — 64-1709; Acts 2019, No. 315, §§ 117, 118; 2023, No. 79, § 1.

4-29-310. Certificate of registration — Suspension or revocation.

(a) The Arkansas State Medical Board may suspend or revoke any certificate of registration for any of the following reasons:

(1) The revocation or suspension of the license to practice medicine of any officer, director, shareholder, or employee not promptly removed or discharged by the corporation;

(2) Unethical professional conduct on the part of any officer, director, shareholder, or employee not promptly removed or discharged by the corporation;

(3) The death of the last remaining shareholder; or

(4) Upon finding that the holder of a certificate has failed to comply with the provisions of this subchapter or the rules prescribed by the board.

(b)

(1) Before any certificate of registration is suspended or revoked, the holder shall be given written notice of the proposed action and the reasons therefor and shall be given a public hearing by the board with the right to produce testimony concerning the charges made.

(2) The notice shall also state the place and date of the hearing which shall be at least five (5) days after service of the notice.

History: Acts 1961, No. 179, §§ 10, 11; A.S.A. 1947, §§ 64-1710, 64-1711; Acts 2019, No. 315, § 119.

4-29-311. Certificate of registration — Appeal from denial, suspension, or revocation.

(a) Any corporation whose application for a certificate of registration has been denied or whose registration has been suspended or revoked may appeal to the Pulaski County Circuit Court within thirty (30) days after notice of the action by the Arkansas State Medical Board.

(b) The court shall inquire into the cause of the board's action and may affirm or reverse the decision and order a further hearing by the board or may order the board to grant the appellant a certificate of registration.

(c) Appeal shall be in the manner provided by law.

(d)

(1) Notice of appeal shall be served upon the secretary of the board by serving the secretary a copy thereof within thirty (30) days after the board has notified the appellant of its decision.

(2) The service may be by registered or certified mail.

History: Acts 1961, No. 179, §§ 12, 13; A.S.A. 1947, §§ 64-1712, 64-1713.

4-29-312. Shares of deceased or disqualified shareholder — Price.

(a) If the articles of incorporation or bylaws of a corporation subject to this subchapter fail to state a price or method of determining a fixed price at which the corporation or its shareholders may purchase the shares of a deceased shareholder or a shareholder no longer qualified to own shares in the corporation, then the price for the shares shall be the book value as of the end of the month immediately preceding the death or disqualification of the shareholder.

(b) Book value shall be determined from the books and records of the corporation in accordance with the regular method of accounting used by the corporation.

History: Acts 1961, No. 179, § 17; A.S.A. 1947, § 64-1717.

4-29-313. Foreign medical corporations — Certificates of registration — Governance — Licensure.

(a) If a foreign medical corporation complies with this subchapter, the Arkansas State Medical Board may issue a certificate of registration to the foreign medical corporation.

(b) A person who is not licensed to practice medicine shall not participate in the ownership, management, or control of a foreign medical corporation.

(c) A proxy to vote shares of a foreign medical corporation shall not be given to a person who is not licensed to practice medicine.

(d) A physician who is affiliated with a foreign medical corporation shall obtain a license to practice medicine from the board before practicing medicine in Arkansas.

History: Acts 2013, No. 135, § 2.

LIMITED LIABILITY

4-32-101 — 4-32-1401. [Repealed.]

RULES OF THE ARKANSAS STATE MEDICAL BOARD

RULE No. 1: GENERAL PROVISIONS

The provisions of the Arkansas Medical Practices Act as now written and future amendments and all other relevant Arkansas statutes shall govern all substantive and procedural acts of the Arkansas State Medical Board.

1. A. The Arkansas State Medical Board was established by the Medical Practices Act, Act 65 of 1955 and Act 298 of 1957. The Board is empowered to license and regulate the practice of medicine, occupational therapy, respiratory therapy, and physician assistants.
   B. The Board meets at least quarterly to examine applicants for licensure, hear complaints, and transact other business that comes before it. The dates for quarterly or special meetings shall be determined by the Board. The day to day business of the Board is conducted by the Executive Director. All subsequent Rules referring or using the word(s) executive secretary and/or secretary are hereby changed to Executive Director.
   C. Persons seeking information from or submitting information to the Board may do so by written communication to the Director. Persons seeking copies of documents on file with the Board may be required to remit in advance reasonable payment for the expense of copying the requested documents. The Executive Director has license application forms available for interested persons.
2. A. The Board holds hearings on licensees pursuant to the Administrative Procedure Act. Upon receipt of information indicating a possible violation of a licensing statute, the Board or its designee may investigate the information and report to the full board. If warranted, a complaint and notice of hearing will be issued informing the licensee of the alleged statutory or regulatory violation, the factual basis of the allegation, and the date, time, and place of the hearing. This complaint and notice of hearing shall be sent at least thirty (30) days in advance of the scheduled hearing date and shall contain a copy of this and any other pertinent rule.
   B. If the Board receives information indicating that the public health, safety, or welfare requires emergency action, the Board may suspend a person's license pending proceedings for revocation or other action. An emergency order of suspension will be issued informing the licensee of the facts or conduct warranting the suspension, and the date, time, and place of the hearing. This emergency order shall contain a copy of this and any other pertinent rule.
   C. A licensee desiring to contest the allegations in a complaint and notice of hearing or an emergency order of suspension shall submit a written answer responding to the factual and legal assertions in the complaint and notice of hearing or emergency order of suspension. At least fifteen (15) days before the scheduled hearing, fifteen (15) copies of the answer shall be given to the Executive Director, who will distribute the additional copies to the board members, and two copies of the answer shall be given to the Board's attorney. If no answer

is received fifteen (15) days before the scheduled hearing, the Board may accept as true the allegations in the complaint and notice of hearing or emergency order of suspension and take appropriate action.

D. Any request for continuance, subpoenas, or recusal of a board member, or any proposed findings of fact and conclusions of law shall be in writing and must be received by the Executive Director and the Board's attorney no later than ten (10) days before the scheduled hearing date. Fifteen (15) copies shall be given to the Executive Director, who will distribute a copy to each board member, and two (2) copies shall be given to the Board's attorney. A request for subpoenas, however, shall be by letter to the Executive Director and the Board's attorney. Any untimely request or submission may be denied solely on the basis of being untimely.

E. At the scheduled hearing the evidence will be presented to the Board and the licensee or his attorney may cross-examine all witnesses and present witnesses and evidence on his own behalf. The Board may question any witness at any time during the hearing. At the conclusion of all the evidence the Board shall vote on the appropriate action. If any disciplinary action is voted, a written decision and order will be prepared and sent to the licensee.

History: Adopted November 9, 1967; Amended April 21, 1988; Amended August 3, 2017, Effective October 4, 2017; Amended March 22, 2022, Effective July 11, 2022.

RULE No. 2

The Arkansas Medical Practices Act authorizes the Arkansas State Medical Board to revoke or suspend the license issued by the Board to practice medicine if the holder thereof has been found guilty of grossly negligent or ignorant malpractice.

"Malpractice" includes any professional misconduct, unreasonable lack of skill or fidelity in professional duties, evil practice, or illegal conduct in the practice of medicine and surgery.

It shall include, among other things, but not limited to:

1. Violation of laws, rules, and procedures governing payment to physicians for medical services for eligible public assistance recipients and/or other third party payment programs.
2. Participation in any plan, agreement, or arrangement which compromises the quality or extent of professional medical services or facilities at the expense of the public health, safety, and welfare.
3. Practicing fraud, deceit, or misrepresentation in the practice of medicine.
4. The prescribing of excessive amounts of controlled substances to a patient including the writing of an excessive number of prescriptions for an addicting or potentially harmful drug to a patient. "Excessive" is defined as the writing of any prescription in any amount without a detailed medical justification for the prescription documented in the patient record.
   A. Chronic Pain: If there is documented medical justification, "excessive" is defined, pursuant to the Centers for Disease Control (CDC) guideline for prescribing opioids for chronic pain, as prescribing opioids at a level that exceeds ≥50 Morphine Milligram Equivalents (MME)per day, unless the physician/physician assistant documents each of the following:
      a. Objective findings, which include, but are not limited to, imaging studies, lab testing and results, nerve conduction testing, biopsy, and any other test that would establish pain generating pathology.
      b. Specific reasons for the need to prescribe ≥ 50 MME per day.
      c. Documented alternative treatment plans as well as alternative therapies trialed and failed prior to considering chronic opioid therapy.
      d. Documented risk factor assessment detailing that the patient was informed of the risk and the addictive nature of the prescribed drug.
      e. Documented assessment of the potential for abuse and/or diversion of the prescribed drug.
      f. That the Prescription Drug Monitoring Program had been checked prior to issuing the prescription.
      g. A detailed clinical rationale for the prescribing and the patient must be seen in an in-person examination every three (3) months or every 90 days.
      h. The definition of "excessive" as contained in this Rule shall not apply to prescriptions written for a patient in hospice care, in active cancer treatment, palliative care, end-of-life care, nursing home, assisted living or a patient while in an inpatient setting or in an emergency situation.
      i. Regular urine drug screens should be performed on patients to insure the patient is taking prescribed medications and is not participating or suspected in participating in diversion or abuse of non-prescribed medications. The treatment of chronic pain shall be consistent with the CDC guidelines as they relate to baseline drug testing, and at least annual follow up testing as warranted for treatment.

j. A pain treatment agreement must be signed and reviewed by the patient when initiating chronic opioid therapy. This agreement should discuss the following: informed risk and addictive nature of prescribed medications, outline the specific expectations between patient and physician, informed consent for periodic urine drug screenings and random pill counts with urine screening as well as the provisions for termination of opioid therapy.

B. Acute Pain: For treatment of acute pain, "excessive" is further defined as an initial prescription written for more than seven (7) days, without detailed, documented medical justification in the medical record. If the patient requires further prescriptions, they must be evaluated in regular increments with documented medical justification for continued treatment in medical record.

C. When opioids are started, clinicians should prescribe the lowest effective dosage. Clinicians should use caution when prescribing opioids at any dosage, should carefully reassess evidence of individual benefits and risks when considering increasing dosage to > 50 morphine milligram equivalents (MME)/day, and should avoid increasing dosage to > 90 MME/day or carefully justify a decision to titrate dosage to > 90 MME/day.

5. The prescribing of Schedule II controlled substances by a physician/physician assistant for his own use or for the use of his immediate family.

6. *The treatment of pain with dangerous drugs and controlled substances is a legitimate medical purpose when done in the usual course of medical practice. If the provisions as set out below in this Resolution are met, and if all drug treatment is properly documented, the Board will consider such practices as prescribing in a therapeutic manner, and prescribing and practicing medicine in a manner consistent with public health and welfare.

A. However, a physician/physician assistant who prescribes **narcotic agents Schedule 2 [except 2.6(e)], 3, 4, and 5, and to include the schedule drugs Talwin, Stadol, and Nubain, for a patient with pain not associated with malignant or terminal illness will be considered exhibiting gross negligence or ignorant malpractice unless he or she has complied with the following:

a. The physician/physician assistant will keep accurate records to include the medical history, physical examination, other evaluations and consultations, treatment plan objective, informed consent noted in the patient record, treatment, medications given, agreements with the patient and periodic reviews.

b. The physician/physician assistant will periodically review the course of schedule drug treatment of the patient and any new information about etiology of the pain. If the patient has not improved, the physician/physician assistant should assess the appropriateness of continued prescribing of scheduled medications or dangerous drugs, or trial of other modalities.

c. The physician/physician assistant will obtain written informed consent from those patients he or she is concerned may abuse controlled substances and discuss the risks and benefits of the use of controlled substances with the patient, his or her guardian, or authorized representatives.

d. The physician/physician assistant will be licensed appropriately in Arkansas and have a valid controlled substance registration and comply with the Federal and State rules for the issuing of controlled substances and prescriptions, more especially the regulations as set forth in 21 Code of Federal Regulations Section 1300, et sequence.

B. Treatment of Chronic Nonmalignant Pain:

a. "Chronic nonmalignant pain" means pain requiring more than three (3) consecutive months of prescriptions for:

i. An opioid that is written for more than the equivalent of ninety (90) tablets, each containing five milligrams (5mg) of hydrocodone;

ii. A morphine equivalent dose of more than fifteen milligrams (15mg) per day; or

iii. In the specific case of tramadol, a dose of fifty milligrams (50mg) per tablet with a quantity of one hundred twenty (120) tablets;

"Opioid" means a drug or medication that relieves pain, including without limitation:

i. Hydrocodone;

ii. Oxycodone;

iii. Morphine;

iv. Codeine;

v. Heroin; and

vi. Fentanyl;

"Prescriber" means a practitioner or other authorized person who prescribes a Schedule II, III, IV, or V controlled substance.

b. Patient evaluation – a patient who is being treated with controlled substances for chronic nonmalignant pain shall be evaluated at least one (1) time every six (6) months by a physician/physician assistant who is licensed by the Arkansas State Medical Board.

c. Prescriber requirements:

i. For a patient with chronic nonmalignant pain, a prescriber, at a minimum and in addition to any additional requirements of the Arkansas State Medical Board, shall:

1. Check the prescriptive history of the patient on the Prescription Drug Monitoring Program pursuant to Rule 41;
2. Follow the specific requirements of Rule 19 and any and all other rules of the Arkansas State Medical Board pertaining to prescribing.

ii. For prescribers licensed after December 31, 2015, within the first two (2) years of being granted a license in the state, a prescriber shall obtain a minimum of three (3) hours of prescribing education approved by the Arkansas State Medical Board. The education approved by the board under this section shall include:

1. Options for online and in-person programs; and
2. Information on prescribing rules and laws that apply to individuals who are licensed in the state.
3. Information and instructions on prescribing controlled substances, record keeping and maintaining safe and professional boundaries.

7. A licensed physician/physician assistant engaging in sexual contact, sexual relations or romantic relationship with a patient concurrent with the physician/physician assistant-patient relationship; or a licensed physician/physician assistant engaging in the same conduct with a former patient, if the physician/physician assistant uses or exploits trust, knowledge, emotions or influence derived from the previous professional relationship, shows a lack of fidelity of professional duties, thus exhibiting gross negligence and ignorant malpractice. A patient's consent to, initiation of, or participation in sexual relationship or conduct with a physician/physician assistant does not change the nature of the conduct nor the prohibition.
8. **Requiring minimum standards for establishing Patient/Provider relationships. Provider is defined as a person licensed by the Arkansas State Medical Board. A Provider exhibits gross negligence if he provides and/or recommends any form of treatment, including prescribing legend drugs, without first establishing a proper Patient/Provider relationship.

A. For purposes of this rule, a proper Patient/Provider relationship, at a minimum requires that:

1. A. The Provider performs a history and an "in person" physical examination of the patient adequate to establish a diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided, OR

B. The Provider has access to a patient's personal health record, defined by ACA §17-80- 401 *et seq.,* as relevant clinical information required to treat a patient, that is maintained by a Provider and uses any technology deemed appropriate by the Provider, including the telephone, with a patient located in Arkansas to diagnose, treat, and if clinically appropriate, prescribe a noncontrolled drug to the patient.

1. A proper professional relationship does not include one established only by internet questionnaire, email message, patient-generated medical history, text message, facsimile, or any combination of these means.

C. The Provider personally knows the patient and the patient's general health status through an "ongoing" personal or professional relationship;

1. Appropriate follow-up be provided or arranged, when necessary, at medically necessary intervals.
2. A health record may be created with the use of telemedicine and consists of relevant clinical information required to treat a patient, and is reviewed by the healthcare professional who meets the same standard of care for a telemedicine visit as an in-person visit.

B. For the purposes of this rule, a proper Patient/Provider relationship is deemed to exist in the following situations:

1. When treatment is provided in consultation with, or upon referral by, another Provider who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including follow up care and the use of any prescribed medications.
2. On-call or cross-coverage situations arranged by the patient's treating Provider.

C. Exceptions -- Recognizing a Provider's duty to adhere to the applicable standard of care, the following situations are hereby excluded from the requirement of this rule:

1. Emergency situations where the life or health of the patient is in danger or imminent danger.

2. Simply providing information of a generic nature not meant to be specific to an individual patient.
3. This Rule does not apply to prescriptions written or medications issued for use in expedited heterosexual partner therapy for the sexually transmitted diseases of gonorrhea and/or chlamydia.
4. This Rule does not apply to the administration of vaccines containing tetanus toxoid (e.g., DTaP, DTP, DT, Tdap, Td, or TT) or inactive influenza vaccines.

History: Adopted June 17, 1976; Amended March 13, 1997; December 5, 1997; Adopted December 3, 1998; Adopted April 6, 2001; Amended February 7, 2002; Amended April 3, 2008; Amended April 12, 2012; Amended December 14, 2015; Amended June 9, 2016, Effective September 6, 2016; Amended April 5, 2018, Effective August 8, 2018; Amended December 6, 2018, Effective June 15, 2019; Amended March 22, 2022, Effective July 11, 2022; Amended April 7, 2022, Effective October 14, 2022.

RULE No. 3: UNRESTRICTED LICENSURE FOR GRADUATES OF FOREIGN MEDICAL SCHOOLS

Unrestricted license may now be applied for by graduates of foreign medical schools provided they can comply with the following requirements and meet the approval of the Arkansas State Medical Board;

1. Be twenty-one years of age.
2. Be of good moral character.
3. Demonstrated in personal interview the ability to read, write, and speak English fluently; and also demonstrate adequate training and ability sufficient to permit the practice of medicine in accordance with accepted medical practice in the State of Arkansas.
4. Present documented evidence that he or she:
    (i) Served three (3) years as an intern, resident, fellow or a combination thereof in an accredited postgraduate medical education program in the United States;
    (ii) Served three (3) years as an intern or resident in a postgraduate medical education program outside the United States, completed all steps of the United States Medical Licensing Examination, obtained Educational Commission for Foreign Medical Graduates certification, and either completed one (1) year or more of fellowship training accredited by the Accreditation Council for Graduate Medical Education in the United States or received American Board of Medical Specialties certification by the American Board of Medical Specialties; or
    (iii) Completed one (1) year as an intern or resident in an accredited post-graduate medical program in the United States and be currently enrolled in an accredited post-graduate medical program in Arkansas. The Applicant should further provide a Letter of Recommendation from the Intern or Residency Director, outlining the Applicant Physician's competence in the practice of medicine and his ability to appropriately interact with patients and other medical staff.
5. Provide indisputable identification.
6. Present a Standard ECFMG (Educational Commission for Foreign Medical Graduates Exam) Certificate.
7. A. Present proof of successful completion of Steps 1, 2 and 3 of the USMLE (United States Medical Licensing Exam).
    B. The applicant must successfully complete each step in no more than 3 attempts per step.

A waiver may be granted by the Board, if requested by the applicant, from the "3 attempt per step limit," for Step 1 and/or Step 2. The waiver will be granted if the Board finds that the applicant can show documentation and proof that he/she suffered from a significant health condition or personal problem, and that by its severity would necessarily cause delay to the applicant's medical education and successful completion of the step testing. The waiver will not exceed 4 attempts per step.

A waiver may also be granted to the “3 attempt per step limit: on step 3 not to exceed 4 attempts if:

The applicant has completed one year of approved graduate medical education after the 3rd failed attempt and before the fourth and final attempt at step 3; or

1) The applicant can show proof that he/she is certified in a Specialty Board by the American Board of Medical Specialties.

History: Amended June 17, 1982; June 16, 1983 April 13, 1984, September 7, 1995, August 4, 2005; June 5, 2008; April 8, 2019, Implemented June 1, 2010; Amended December 4, 2014; Amended February 26, 2024

RULE No. 4: RULES GOVERNING PHYSICIAN’S ASSISTANTS

REPEALED: OCTOBER 7, 1999; REPLACED BY RULE 24; ADOPTED FEBRUARY 4, 2000; Amended March 22, 2022, Effective July 11, 2022.

RULE No. 5: RULES FOR PHYSICAL THERAPIST ASSISTANTS AND PHYSICAL THERAPIST ASSISTANTS TRAINEE

REPEALED: BOARDS SEPARATED, JULY 1, 1991; Amended March 22, 2022, Effective July 11, 2022; Amended March 22, 2022, Effective July 11, 2022.

RULE No. 6: RULES GOVERNING THE LICENSING AND PRACTICE OF OCCUPATIONAL THERAPISTS

1. APPLICATION FOR LICENSURE. Any person who plans to practice as a licensed occupational therapist or occupational therapy assistant in the state of Arkansas shall, in addition to demonstrating his or her eligibility in accordance with the requirements of Section 7 of Act 381 of 1977, apply for licensure to the Board, on forms and in such a manner as the Board shall prescribe.

1.1 FORMS. Application forms can be secured from the Arkansas State Medical Board.

1.2 FILING REQUIREMENTS. Completed applications shall be submitted together with necessary documents and filing fee to the Board. The filing fee is not refundable. Applications and documentation must be completed within one year of date of receipt by the Arkansas State Medical Board. Applications and documentation over one year old are voided and the applicant must reapply.

1.3 BOARD ACTION ON APPLICANTS. Applications for licensure shall be acted upon by the Board no later than its next regularly scheduled meeting following the receipt of the required fee and all credentials.

2. EXAMINATION. All occupational therapists and occupational therapy assistants are required to pass an examination, approved by the Board, for licensure to practice the profession in Arkansas, except as otherwise provided in Arkansas Code 17-88-103. The Board has adopted for this purpose the examination administered by the National Board for Certification in Occupational Therapy for the certification of occupational therapists and occupational therapy assistants. For this purpose the Board shall follow the schedule, format and acceptable passing scores set by the National Board for Certification in Occupational Therapy and its designated agent. Applicants may obtain their examination scores in accordance with such rules as the National Board for Certification in Occupational Therapy may establish.

2.1 RE-EXAMINATION. An applicant who fails an examination may make reapplication to the National Board for Certification in Occupational Therapy for re-examination accompanied by the prescribed fee. Any applicant who fails or misses three (3) examinations must take additional educational work in the areas of his weakness as determined by the Committee before being eligible for re-examination.

3. LICENSING. All occupational therapists and occupational therapy assistants must be licensed to practice in the state of Arkansas prior to practicing the profession.

3.1 BY EXAMINATION. The Board shall register as an occupational therapist or occupational therapy assistant and shall issue a license to any person who satisfactorily passes the said examination provided for in these Rules and Regulations, and who otherwise meets the requirements for qualification contained herein and pays a fee as determined by the Board.

3.2 TEMPORARY LICENSES. The Secretary of the Board shall issue a temporary license, without examination, to practice occupational therapy, in association with an occupational therapist, licensed under the Act, to persons who have completed the education and experience requirements of the Act and rules and who are required to be licensed in order to obtain employment as an occupational therapist or an occupational therapy assistant. The temporary license shall only be renewed once if the applicant has not passed the examination or if the applicant has failed to take the qualifying examination, unless the failure is justified by good cause acceptable at the discretion of the Board, with recommendation of the Committee.

3.3 RENEWAL.

(A) A renewal or re-registration fee shall be paid annually to the Board by each occupational therapist and occupational therapy assistant who holds a license to practice occupational therapy in the State of Arkansas.

(B) Each licensee must complete, answer truthfully, and provide such information on a Renewal Application prior to being relicensed.

(C) Each occupational therapist and occupational therapy assistant shall be required to complete ten (10) continuing education credits each year, as a prerequisite for license renewal in the State of Arkansas. Credit for continuing education requirements may be earned in the following manner:

(1) Workshops, refresher courses, professional conferences, seminars, or facility-based continuing education programs, designated for occupational therapists. Hour for hour credit on program content only.

(a) Evaluate professional skills using the National Board for Certification in Occupational Therapy online Self-Assessment tool or similar professional skills assessment tool; limited to one (1) continuing education credit.

(b) Volunteer for an organization that enhances one's practice roles; limited to two (2) continuing education credits. Five (5) hours of volunteer work equals one (1) continuing education credit. Hours will need to be verified from the organization on their letterhead. Letter will confirm hours and the overall outcome of the service.

(c) Mentoring an occupational therapist or occupational therapy assistant colleague to improve skills; limited to two (2) continuing education credits. Form on the National Board for Certification in Occupational Therapy website must be completed and submitted to the Board.

(d) Receive mentoring from a current licensed occupational therapist or occupational therapy assistant. Form from NBCOT's website must be completed and submitted to the Board; limited to two (2) continuing education credits.

(e) Participation in a professional occupational therapy study group/online study group designed to expand one's knowledge; limited to two (2) continuing education credits.

(f) Level I fieldwork supervision equals two (2) continuing education credits; Level II fieldwork supervision equals four (4) continuing education credits; limited to four (4) continuing education credits; and Level III field work/doctoral capstone experience equals six (6) continuing education credits.

(2) Professional presentation at a state, national, or international workshop, seminar, or conference. One-time presentation per topic; time spent on preparation cannot be included. Limited to ten (10) continuing education credits.

(3) Formal academic coursework related to the field of occupational therapy. One (1) to two (2) semester hour class equivalent to five (5) continuing education credits. Three (3) to four (4) semester hour class equivalent to ten (10) continuing education credits.

(a) Serve as adjunct faculty teaching an occupational therapy course (must not be one's primary role); limited to ten (10) continuing education credits.

(4) Publications/Media; Research/Grant activities. A request to receive credit for these activities must be submitted in writing, for approval, to the Arkansas State Occupational Therapy Examining Committee thirty (30) days prior to the expiration of the license. Ten (10) continuing education credits earned however grant must be complete and the Committee must provide pre-approval before being accepted for continuing education credits.

(a) Developing training manuals, multimedia, or software programs that advance the professional skills of occupational therapist (must not be one's primary role); limited to five (5) continuing education credits for non-peer review and ten (10) continuing education credits for published peer review.

(b) Author of a practice-area related article in a non-peer reviewed professional publication; limited to five (5) continuing education credits.

(c) Author of a practice-area related article in a peer-reviewed professional publication; limited to ten (10) continuing education credits.

(d) Author of a practice-area related article in a newsletter or community newspaper; limited to one (1) continuing education credit.

(e) Author of a chapter in a practice-area related professional textbook; limited to ten (10) continuing education credits.

(5) Self-study.

(a) Book, journal or video reviews. Must be verified by submission of a one (1) page typewritten review of the material studied, including application to clinical practice, one (1) continuing education credit per review; two (2) hour maximum per year.

(b) Self-study coursework verified by submission of proof of course completion. The number of contact hours credited will be determined by the Arkansas Occupational Therapy Examining Committee. Course outline and proof of completion must be submitted to the Committee thirty (30) days prior to the expiration of the license.

(6) Any deviation from the above continuing education categories will be reviewed on a case by case basis by the Committee. A request for special consideration or exemption must be submitted in writing sixty (60) days prior to the expiration of the license.

(7) All continuing education programs shall directly pertain to the profession of occupational therapy. The Committee will not pre-approve continuing education programs. All occupational therapists

licensed by the Board in the State of Arkansas must complete annually ten (10) continuing education hourly units as a condition for renewal of a license. Each licensee will sign his or her renewal application verifying that he or she has completed said ten (10) hours and will maintain for a period of three (3) years proof of the courses taken, should it be requested by the Board for audit purposes. Acceptable documentation to maintain on file is as follows:

(a) Official transcripts documenting completion of academic coursework directly related to the field of occupational therapy.

(b) A signed verification by a program director or instructor of the practitioner's attendance in a program, by letter on letterhead of the sponsoring agency, certificate, or official continuing education transcript, accompanied by a brochure, agenda, program or other applicable information indicating the program content.

(c) A letter from a practitioner's supervisor on the agency's letterhead, giving the names of the continuing education programs attended location, dates, subjects taught, and hours of instruction.

(8) Therapists receiving a new license will not be required to submit for continuing education credit during the first partial year of licensure. Failure to submit verification of continuing education for renewal will result in issuance of a "failure to comply" notification. If the continuing education submitted for credit is deemed by the Committee to be unrelated to the profession of occupational therapy, the applicant will be given three (3) months to earn and submit replacement hours. These hours will be considered as replacement hours and cannot be counted during the next licensure period. If the applicant feels the continuing education credit has been denied inappropriately, the applicant may appeal the issue to the Board for determination within thirty (30) days of the date of receiving notice from the Committee. The Board will be responsible for maintaining all of the records involved in the continuing education requirements set forth in this regulation. The re-registration fee and proof of continuing education completed, as set forth above, shall be presented to the Board and the Committee before or during the birth month of the license holder each year. Failure to re-register and comply with the continuing education requirements by the last day of the birth month of the license holder of that year shall cause the license of the occupational therapist or occupational therapy assistant in question to automatically expire. This requirement becomes effective 1993 with the first submission of continuing education credits being required in January of 1994.

3.4 REINSTATEMENT. Any delinquent license of less than five (5) years may be reinstated, at the discretion of the Board by,

(A) Paying all delinquent fees and a penalty of Twenty Five and No/100 ($25.00) Dollars for each year or part of a year he or she has been delinquent, and

(B) by providing proof of completion of the continuing education requirement for each year, and

(C) completing the Renewal Application provided by the Board.

Any person who shall fail to re-register and pay the annual license fee for five (5) consecutive years shall be required to make reapplication to the Board before his or her license may be reinstated.

4. REFUSAL, REVOCATION, AND/OR SUSPENSION OF LICENSE. The Board after due notice and hearing may deny or refuse to renew a license, or may suspend or revoke a license, or impose such penalties as provided by the Practice Act, where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

Such unprofessional conduct shall include:

(A) Obtaining a license by means of fraud, misrepresentation or concealment of material facts; or providing false material to the Board at application or renewal.

(B) Being guilty of unprofessional conduct or gross negligence as defined by rules established by the Committee, or violating the Code of Ethics adopted and published by the Committee;

(C) Treating, or undertaking to treat, ailments of human beings otherwise than by occupational therapy, as authorized by the Act;

(D) Being convicted of a crime other than minor offenses defined as "minor misdemeanors", "violations", or "offenses", in any court, except those minor offenses found by the Board to have direct bearing on whether one should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant;

(E) Use of any drug or alcohol to an extent that impairs his or her ability to perform the work of an occupational therapist with safety to the public;

(F) Being adjudged to have a mental condition that renders him or her unable to practice occupational therapy with reasonable skill and safety to patients.

5. FEES. The fees are as follows:

		OT	OTA
A.	Application Fee	$25.00	$25.00
B.	Full License Fee	$50.00	$25.00
C.	Temporary Permit Fee	$25.00	$25.00
D.	Reinstatement Fee		

All delinquent fees plus $25.00 late fee per year for each year delinquent up to five (5) years.

E.	Annual Renewal Fee	$65.00	$65.00
F.	Renewal Late Fee	$25.00	$25.00

6. DEFINITIONS

6.1 ACT DEFINED. The term Act as used in these rules shall mean the Arkansas State Occupational Therapy Licensing Act 381 of 1977.

6.2 FREQUENT AND REGULAR SUPERVISION DEFINED: As specified in the Occupational Therapy Practice Act 17-88-102, (3) an "occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the frequent and regular supervision by or in consultation with an occupational therapist whose license is in good standing. "Frequent" and "regular" are defined by the Arkansas State Occupational Therapy Examining Committee as consisting of the following elements:

(A) The supervising occupational therapist shall have a legal and ethical responsibility to provide supervision, and the supervisee shall have a legal and ethical responsibility to obtain supervision regarding the patients seen by the occupational therapy assistant.

(B) Supervision by the occupational therapist of the supervisee's occupational therapy services shall always be required, even when the supervisee is experienced and highly skilled in a particular area.

(C) Frequent/Regular Supervision of an occupational therapy assistant by the occupational therapist is as follows:

1) The supervising occupational therapist shall meet with the occupational therapy assistant for on-site, face to face supervision a minimum of one (1) hour per forty (40) occupational therapy work hours performed by the occupational therapy assistant, to review each patient's progress and objectives.

2) The supervising occupational therapist shall meet with each patient and the occupational therapy assistant providing services on a monthly basis, to review patient progress and objectives.

3) Supervision Log. It is the responsibility of the occupational therapy assistant to maintain on file signed documentation reflecting supervision activities. This supervision documentation shall contain the following: date of supervision, time (start to finish), means of communication, information discussed, number of patients, and outcomes of the interaction. Both the supervising occupational therapist and the occupational therapy assistant must sign each entry.

4) Each occupational therapy assistant will maintain for a period of three (3) years proof of a supervision log, should it be requested by the Board for audit purposes.

(D) The occupational therapists shall assign, and the occupational therapy assistant shall accept, only those duties and responsibilities for which the occupational therapy assistant has been specifically trained and is qualified to perform, pursuant to the judgment of the occupational therapist.

(1) Assessment/reassessment. Patient evaluation is the responsibility of the occupational therapists. The occupational therapy assistant may contribute to the evaluation process by gathering data, and reporting observations. The occupational therapy assistant may not evaluate independently or initiate treatment prior to the occupational therapist's evaluation.

(2) Treatment planning/Intervention. The occupational therapy assistant may contribute to treatment planning as directed by the occupational therapist. The occupational therapist shall advise the patient/client as to which level of practitioner will carry out the treatment plan.

(3) Discontinuation of intervention. The occupational therapy assistant may contribute to the discharge process as directed by the occupational therapist. The occupational therapist shall be responsible for the final evaluation session and discharge documentation.

(E) Before an occupational therapy assistant can assist in the practice of occupational therapy, he or she must file with the Board a signed, current statement of supervision of the licensed occupational therapist(s) who will supervise the occupational therapy assistant. Change in supervision shall require a new status report to be filed with the Board, prior to starting work and when supervision ends.

(F) In extenuating circumstances, when the occupational therapy assistant is without supervision, the occupational therapy assistant may carry out established programs for up to thirty (30) calendar days while appropriate occupational therapy supervision is sought. It shall be the responsibility of the occupational therapy assistant to notify the Board of these circumstances.

(G) Failure to comply with the above will be considered unprofessional conduct and may result in punishment by the Board.

6.3 DIRECT SUPERVISION OF AIDES DEFINED.

(A) The occupational therapy aide as defined in 17-88-102 (4) means a person who aids a licensed occupational therapist or occupational therapy assistant in the practice of occupational therapy, whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

(B) The aide functions with supervision appropriate to the task as determined by the supervisor. This supervision is provided by the occupational therapists or the occupational therapy assistant. The aide is not trained to make professional judgments or to perform tasks that require the clinical reasoning of an occupational therapy practitioner. The role of the aide is strictly to support the occupational therapist or the occupational therapy assistant with specific non-client related tasks, such as clerical and maintenance activities, preparation of a work area or equipment, or with routine client-related aspects of the intervention session.

(C) Any duties assigned to an occupational therapy aide must be determined and appropriately supervised on-site, in-sight daily by a licensed occupational therapist or occupational therapy assistant and must not exceed the level of training, knowledge, skill and competence of the individual being supervised. Direct client related duties shall require continuous visual supervision by the occupational therapist or the occupational therapy assistant. The Board holds the supervising occupational therapist professionally responsible for the acts or actions performed by any occupational therapy aide supervised by the therapist in the occupational therapy setting.

(D) Duties or functions which occupational therapy aides shall not perform include the following:

(1) Interpreting referrals or prescriptions for occupational therapy services;
(2) Performing evaluative procedures;
(3) Developing, planning, adjusting, or modifying treatment procedures;
(4) Preparing written documentation of patient treatment or progress for the patient's record;
(5) Acting independently or without on-site, in-sight supervision of a licensed occupational therapist during patient therapy sessions.

(E) Direct client related services provided solely by an occupational therapy aide/tech without on-site, in-sight continuous visual supervision by a licensed occupational therapist or an occupational therapy assistant cannot be billed as occupational therapy services.

(F) Failure of licensee to supervise an Aide as described herein will be considered as unprofessional conduct and may result in punishment by the Board.

7. Occupational therapists and occupational therapy assistants should abide by the principles and standards in the current Occupational Therapy Code of Ethics published by the American Occupational Therapy Association.

History**:** Adopted June 15, 1978; Amended December 11, 1992; March 12, 1993; December 4, 1997; February 1, 2001; April 6, 2001; April 4, 2002; October 6, 2005; June 5, 2014; February 5, 2015, Effective August 17, 2015; Amended June 4, 2020; Effective August 7, 2020; Amended March 22, 2022, Effective July 11, 2022.

RULE No. 7: RULES GOVERNING THE USE OF STIMULANTS

Schedule II controlled substances are drugs that have a legitimate medical indication, but also have a high potential for abuse that may lead to severe psychological or physical dependence. Included in the list of Schedule II drugs are the stimulants: amphetamines and methamphetamines and their salts and optical isomers (e.g. Adderall, Desoxyn, Dexedrine and Vyvanse) and methylphenidate and its salts and isomers (e.g. Ritalin, Concerta, Focalin and Daytrana).

The ASMB believes it is prudent to provide prescribing guidelines to help ensure the safety of patients in the state of Arkansas. Therefore, in addition to the requirement that all prescriptions for stimulants comply with both state and federal laws, this rule will also require the following:

1. Prescriptions for these drugs may be written by a physician for a legitimate medical indication. Such indications include Attention Deficit Hyperactivity Disorder and Narcolepsy. Other off label uses may be justified with appropriate medical rationale and documentation of evidence-based research and experience.

These alternative uses include, but are not limited to other sleep disorders, augmentation of antidepressants or treatment of post-stroke depression.

2. No second or subsequent prescription for these controlled drugs may be written for the patient until the physician reassesses the patient and documents in the medical record:
   a. The patient's response to the medication
   b. Reports from family, educators or counselors as to the patient's response to the medication
   c. Record of an examination of the patient to identify possible adverse effects secondary to the medication
   d. An informed judgment as to the overall benefit of the medication versus potential adverse or side effects
   e. A written plan for providing scheduled refills and return visits.

Violations of this rule may be interpreted by the Board as the physician exhibiting gross negligence or ignorant malpractice and shall subject the physician to all penalties provided by Arkansas Code Ann. §17-95-410.

History: Adopted April 23, 1979; Amended April 18, 1986; Amended June 14, 2001; Amended June 9, 2011; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 8

REPEALED: JUNE 9, 1995; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 9

REPEALED: DECEMBER 1, 1994; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 10: RULES GOVERNING THE LICENSING AND PRACTICE OF RESPIRATORY CARE PRACTITIONERS

1. APPLICATION FOR LICENSURE. Any person who plans to practice as a licensed respiratory care practitioner (LRCP) in the state of Arkansas shall, in addition to demonstrating eligibility in accordance with the requirement of Arkansas Code Ann. 17-99-302 or 17-99-303, apply for licensure to the Board on forms and in such manner as the Board shall prescribe.

1.1 FORMS. Application forms may be secured from the Arkansas State Medical Board.

2. EXAMINATION. All respiratory care practitioners shall be required to pass an examination for a license to practice the profession in Arkansas, except as otherwise stated in Arkansas Code Ann. 17-99-301. It is not the intent of the Board to examine for licensure as a respiratory care practitioner those individuals engaged solely in the practice of pulmonary function testing.

3. LICENSING. All respiratory care practitioners in the state of Arkansas must be licensed to practice, except as otherwise stated in Arkansas Code Ann. 17-99-301.

3.1 BY EXAMINATION. The Board shall register as a respiratory care practitioner and shall issue a license to any person who satisfactorily passes the examination provided for in the Act and who otherwise meets the requirements for qualification contained herein and pays a fee as determined by the Board.

3.2. BY WAIVER OF EXAMINATION. The Board shall waive the examination and grant a license as a licensed respiratory care practitioner (LRCP) to any person who meets the qualifications outlined in Arkansas Code Ann. 17-99-302.

3.3 TEMPORARY LICENSE. The secretary of the Board may issue a temporary permit without examination to practice respiratory care to persons who are not licensed in other states but otherwise meet the qualifications for licensure set out in the Act. The temporary permit is valid for six (6) months and is not renewable.

3.4 RECIPROCITY. A licensed respiratory care practitioner who has been issued a license in another state or territory whose qualifications for licensure meet or exceed those prescribed in the Act shall be issued a license to practice respiratory care in the state of Arkansas upon payment of the prescribed fees if the state or territory from which the applicant comes accords a similar privilege of licensure to persons licensed in this state by the Board.

3.5 RENEWAL. A license or re-registration fee of $40.00 shall be paid to the Board by each respiratory care practitioner who holds a license to practice respiratory care in the state of Arkansas. Registration fee shall be paid by the last day of the birth month. The license of any person failing to re-register and pay said fee by the last day of the birth month shall expire automatically.

3.6 REINSTATEMENT. Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty of $10.00 for each year or part of a year they have been delinquent. They will also be required to submit twelve (12) continuing educational units (CEU's) for each year delinquent. Any

person who shall fail to re-register and pay the annual fee for five (5) consecutive years shall be required to be re-examined by the Board, as per Rule 2, before their license may be reinstated.

3.7 REFUSAL, REVOCATION, AND/OR SUSPENSION OF LICENSE. The Board after due notice and hearing may deny or refuse to renew a license, or may suspend or revoke a license, of any licensee or applicant for licensure:

(a) Who is habitually drunk or who is addicted to the use of narcotic drugs;
(b) Who has been convicted of a violation of state or federal narcotic laws;
(c) Who is, in the judgment of the Board, guilty of unprofessional conduct;
(d) Who has been convicted of any crime listed in A.C.A. §17-3-102;
(e) Who is guilty, in the judgment of the Board, of gross negligence in their practice as a respiratory care practitioner;
(f) Who has obtained or attempted to obtain registration by fraud or material misrepresentation;
(g) Who has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane;
(h) Who has treated or undertaken to treat ailments to human beings other than by respiratory care and as authorized by this Act, or who has undertaken to practice independent of the prescription and direction of a licensed physician.

4. FEES. The fees are as follows:

Initial application for licensure by examination or by reciprocity: $75.00.
An applicant whose application is rejected shall be refunded all but $25.00 of the paid application fee.
Application for temporary permit: $35.00
Annual renewal: $40.00
Reinstatement: All delinquent fees plus a penalty of $10.00 per year for all years delinquent.

5. CONTINUING EDUCATION. All respiratory care practitioners licensed by the Board in the state of Arkansas must complete twelve (12) continuing education hourly units as a condition for renewal of a license. One of the 12 hourly units shall be on the subject of ethics/professional boundaries. Each licensee will sign their renewal application verifying that they have completed said twelve hours and will maintain, for a period of three years, proof of the courses taken, should it be requested by the Board for audit purposes.

5.1 TYPES OF ACCEPTABLE CONTINUING EDUCATION.

The following categories of experience will be accepted for meeting the continuing education requirements:

a. Courses completed in the techniques and application of respiratory therapy care provided through an approved respiratory care educational program.
b. Participation in programs which provide for the awarding of continuing respiratory care education, continuing education units or equivalent credits which may be granted through national or state organizations such as the American Association of Respiratory Care, Arkansas Society for Respiratory Care, American Thoracic Society or the American College of Chest Physicians, or their successor organizations.
c. Instruction in programs as described in the preceding sections (a, b) provided such instruction is not related to one's employment responsibilities.
d. Passage of the National Board for Respiratory Care credentialing or re-credentialing examinations for the entry level practitioner or the written or clinical simulation for advanced practitioners.
e. Any activity completed within the 12 months prior to the issuance of the initial license.

5.2 DOCUMENTATION. All licensed practitioners shall submit documentation of completion of continuing education experiences on such forms as the Board shall supply, upon request by the Board. Acceptable documentation is as follows:

a. Official transcripts documenting completion of respiratory care course work.
b. A signed certificate by a program leader or instructor of the practitioner's attendance in a program.
c. A letter from a sponsoring institution on the agency's letterhead giving the name of the program, location, dates, subjects taught, and hours of instruction.
d. A copy of the official transcript indicating successful passage of the National Board of Respiratory Care credentialing or re-credentialing examinations for the entry level practitioner or clinical simulation for advanced practitioners.

5.3 CONTINUING EDUCATION CREDIT. Continuing education credits will be awarded based on the following criteria:

a. For completed applicable respiratory care course work, five (5) continuing education units will be awarded for each semester credit or hour successfully completed.

b. For programs attended, continuing education units will be awarded as stated in the program literature or one (1) continuing education unit will be awarded for each hour of instruction.
c. For instruction, three (3) continuing education units will be awarded for each clock hour of respiratory care instruction, signed by program director.
d. For passage of the National Board for Respiratory Care credentialing or re-credentialing examinations for the entry level practitioner or the written or clinical simulation or advanced practitioner (RRT), Adult Critical Care Specialty Examination (ACCS), Certified Respiratory Therapy Sleep Disorders Specialist Examination (CRT-SDS), Registered Respiratory Therapy Sleep Disorders Specialist Examination (RRT-SDS), Neonatal/Pediatric Specialty Examination (NPS), Certified Pulmonary Function Technologist (CPFT), and Registered Pulmonary Function Technologist (RPFT), six (6) continuing education units will be awarded.
e. Advanced Cardiovascular Life Support (ACLS), Neonatal Advanced Life Support (NALS), Pediatric Advanced Life Support (PALS), Neonatal Resuscitation Program (NRP), and Sugar, Temperature, Airway, Blood work, Lab work, and Emotional support for the family (STABLE) are awarded six (6) CEU's on initial and/or re-certifications.
f. Any activity approved by the Arkansas Respiratory Care Examining Committee.

5.4 FAILURE TO COMPLETE THE CONTINUING EDUCATION REQUIREMENT. A practitioner who has failed to complete the requirements for continuing education as specified in Section 5:
a. Only active licensees may be granted up to a three (3) month extension at which time all requirements must be met.
b. A practitioner may not receive another extension at the end of the new reporting period.

5.5 EXCESSIVE CONTINUING EDUCATION CREDITS.
Credits reported to the Board which exceed the required number as specified in Section 5 shall not be credited to the new reporting period.

5.6 HARDSHIP. The Board has considered hardship situation in formulating these sections.

5.7 The provisions of this Section (5 - 5.7) shall become effective January 1, 1989.

6. DEFINITIONS.

6.1 ACT DEFINED. The term Act as used in these rules shall mean Act 1094, the Arkansas Respiratory Care Act of 1995.

6.2 NATIONAL CREDENTIALS DEFINED. The National Board for Respiratory Care issues the credentials of C.R.T. (Certified Respiratory Therapist) and R.R.T (Registered Respiratory Therapist). Persons holding these credentials meet the qualifications for licensure in the state of Arkansas until otherwise determined by the Board.

6.3 STATE CREDENTIALS DEFINED. Persons who have met the qualifications and obtained a license in the state of Arkansas shall be designated by the credentials of L.R.C.P. (Licensed Respiratory Care Practitioner).

7. OTHER DEFINITIONS.

7.1 STUDENT. A Person currently enrolled in an accredited, approved training program who is actively engaged in the clinical practice of respiratory care at the level of their clinical education.

7.2 LIMITED. The clinical practice of respiratory care shall be restricted to the level of current and progressive clinical training as provided by an accredited, approved training program in respiratory care. The definition applies to respiratory care students.

7.3 SUPERVISION. Supervision by a licensed respiratory care practitioner who is responsible for the functioning of the practitioner.

7.4 APPROVED TRAINING PROGRAM. Respiratory care programs approved by the Arkansas State Board of Higher Education or like organizations in other states.

8. Members of the Arkansas Respiratory Care Examining Committee will be paid the sum of $35.00 per day per diem when they are meeting as a Committee.

History: Adopted May 25, 1988; Amended September 8,1995, December 4, 1997; Revised March 5, 1999; *Revised February 4, 2000; Amended December 6, 2001; Amended October 6, 2005; Amended October 4, 2012; Amended January 1, 2013; Amended June 5, 2014; Amended August 6, 2015, Effective December 14, 2015; Amended March 22, 2022; Effective July 11, 2022; Effective February 9, 2024

RULE No. 11: SCHEDULED MEETING DATES

REPEALED; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 12: DISPENSING

SECTION I: APPROVAL TO DISPENSE: LEGEND DRUGS

1. Any physician desiring to dispense legend drugs shall apply to the Arkansas State Medical Board on a form provided for that purpose and shall be required to demonstrate the need for such dispensing of legend drugs prior to receiving approval.
2. This section does not apply to:
    a. Licensed physicians who were dispensing in the ordinary course of his/her practice before April 12, 2013 shall be exempt from the licensing requirements of this section.
    b. Physicians who only dispense drugs in injectable form unless they are controlled substances, in which case this section shall apply fully.
    c. Physicians dispensing topical medication, Naloxone, nicotine replacement therapy, contraceptives, acute care medication that is a legend but not a controlled substance prescribed for no more than fourteen (14) days, and initial treatment for maintenance medication.
        i. Acute care medication includes the following oral medications:
            1. To treat infections;
            2. Anti-inflammatory medications;
            3. Antinausea medications;
            4. Antihistamines; and
            5. Cough medications.
        ii. Initial treatment for maintenance medication means a legend drug that:
            1. Is not a controlled substance;
            2. Is prescribed for no more than thirty (30) days;
            3. And is used to treat hypertension, diabetes mellitus, or hypercholesterolemia.
3. A "dispensing physician" is a physician licensed under the Arkansas Medical Practices Act who purchases legend drugs to be dispensed to his/her patients for the patients' personal use and administration outside the physician's office. A dispensing physician shall:
    a. Personally dispense legend drugs, and the dispensing of legend drugs may be delegated;
    b. Keep records of all receipts and distributions of legend drugs;
    c. Label drugs with the following information:
        i. Patient's name and address;
        ii. Prescribing physician's address, narcotic registry number issued by the U.S. DEA, or national provider identification number;
        iii. Date of dispensing; and
        iv. Directions and cautionary statements, if any, required by law; and
4. Make all records readily accessible for inspection by a designated inspector of the Arkansas State Medical Board and at its direction during all regular business hours.

SECTION II: DISPENSING REQUIREMENTS

1. All records maintained by a dispensing physician shall be subject to inspection by a designated inspector of the Arkansas State Medical Board and at its direction during all regular business hours.
2. Any dispensing physician or delegated individual participating in the preparation of orders or dispensing of prescriptions or any dispensing physician who is responsible for supervising personnel participating in the preparation of orders or dispensing of prescriptions is responsible for the validity and legality of the order or prescription.
    (a) Any dispensing physician who is responsible for supervising personnel is also responsible for any shortage of drugs classified as controlled drugs under state or federal law which occurs under his/her supervision.
    (b) The dispensing physician is responsible for the security and accountability of all drugs stored and is responsible for the validity and legality of all prescriptions or orders upon which drugs are dispensed. The dispensing physician is responsible for ensuring that delegated staff has been appropriately trained to follow all policies and procedures.
3. An inventory is to be maintained, monitored, and recorded jointly by the dispensing physician and delegated employees.

History: Adopted June 16, 1983; Amended Act 503 of 2021, Adopted June 28, 2022, Effective October 14, 2022

RULE No. 13

WHEREAS, the Arkansas State Medical Board is vested with discretion (pursuant to Arkansas Code Annotated § 17-95-405) to issue a license to practice medicine to a physician who has been issued a license to practice medicine in another state, "whose requirements for licensure are equal to those established by the State of Arkansas" without requiring further examination; and in order to establish objective criteria of equivalency in licensure requirements, the Board hereby finds that all applicants for licensure who were graduated from an American or Canadian medical school prior to 1975 and who otherwise meet all other requirements for licensure in this State shall be determined to meet the requirements for licensure in this State upon presentation of satisfactory evidence that they have successfully completed the examination required by the licensing authority in the State in which they were originally licensed. All applicants for licensure who were graduated from an American or Canadian Medical School subsequent to 1975 shall be required to present evidence of satisfactory completion of one of the examinations listed in Rule 14. Graduates of Canadian medical schools shall be deemed to have satisfied the equivalency requirements by providing proof of completion of the LMCC (Licentiate of the Medical Council of Canada) examination. Graduates of foreign medical schools must comply with the requirements of Rule 3 and Rule 14, regardless of the State in which they are licensed. All applicants must complete and submit such information as the Board requests on its application form for licensure by credentials.

History: Adopted April 19, 1985, Amended October 6, 2000; Amended March 22, 2022; Effective July 11, 2022

RULE No. 14

WHEREAS the Medical Practices Act; more specifically Arkansas Code Annotated Sec. 17-93-403(a)(2) and Arkansas Code Annotated Sec. 17-93-404, sets forth that anyone desiring a license to practice medicine in the State of Arkansas must successfully pass an examination as approved by the Board.

WHEREAS the Arkansas State Medical Board is charged with selecting said examinations. WHEREFORE the Arkansas State Medical Board designates the following examinations as appropriate examinations for licensure:

1. Those individuals desiring a license to practice medicine and having graduated from an American or Canadian medical school must show proof of satisfactory completion of one of the following exams:
   (a) Federation Licensing Examination
   (b) The National Board of Medical Exam
   (c) The United States Medical Licensing Exam
   (d) Le Medical Counsel of Canada Exam
   (e) Examinations developed by the National Board of Osteopathic Medical Examiners
2. Those individuals desiring a license who have graduated from a foreign country's medical school in addition to the other requirements will show proof of successful completion of the ECFMG (Educational Commission for Foreign Medical Graduates Exam) and one of the following exams:
   (a) Federation Licensing Examination
   (b) The National Board of Medical Exam
   (c) The United States Medical Licensing Exam
   (d) Le Medical Counsel of Canada Exam
3. Those individuals desiring a license to practice medicine as an Osteopath in the State of Arkansas, in addition to the other requirements, will show proof of successful completion of one of the following exams:
   (a) Federation Licensing Examination
   (b) Examinations developed by the National Board of Osteopathic Medical Examiners
   (c) The United States Medical Licensing Exam
   (d) The National Board of Medical Exam
   (e) Le Medical Counsel of Canada Exam
4. Those individuals desiring a license by credential must show proof of successful completion of an examination accepted and stated above of one of the following:
   (a) All of those listed under the first category
   (b) Any State exam if it was taken prior to 1975
5. It is recognized by the Arkansas State Medical Board that the Federation Licensing Exam (FLEX) and the National Board of Medical Examiners (NBME) are being phased out as an accepted examinations for licensure. It is also recognized by the Arkansas State Medical Board that the United States Medical Licensing Exam (USMLE) is being phased in as the primary form of examination for state licensure.
   During this period of transition, the following will be accepted by the Arkansas State Medical Board

as completion of an approved examination:

NBME Part I or USMLE Step I
plus
NBME Part II or USMLE Step 2
plus
NBME Part III or USMLE Step 3

FLEX Component I
plus
USMLE Step 3

or

NBME Part I or USMLE Step I
plus
NBME Part II or USMLE Step 2
plus
FLEX Component 2

The above combinations of examinations in no way is to imply that one cannot take the entire examination, that being those exams listed in Rule 14-1, and passing the same.

6. All applicants for a license to practice medicine in the State of Arkansas, who choose to take the United States Medical Exam (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX) must comply with the following:
   A. Present proof of successful completion of Steps 1, 2 and 3 of the USMLE (United States Medical Licensing Exam) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX).
   B. The applicant must successfully complete each step in no more than 3 attempts per step.
      A waiver may be granted by the Board, if requested by the applicant, from the "3 attempt per step limit," for Step 1 and/or Step 2. The waiver will be granted if the Board finds that the applicant can show documentation and proof that he/she suffered from a significant health condition or personal problem, and that by its severity would necessarily cause delay to the applicant's medical education and successful completion of the step testing. The waiver will not exceed 4 attempts per step.
      A waiver may also be granted to the "3 attempt per step limit" on step 3 not to exceed 4 attempts if:
      1) the applicant has completed one year of approved graduate medical education after the 3rd failed attempt and before the fourth and final attempt at step 3; or
      2) the applicant can show proof that he/she is certified in a Specialty Board by the American Board of Medical Specialties.
   C. The limitation on the number of attempts of the step exams as set forth in Paragraph B, may begin anew, if the applicant begins his or her entire medical school education anew.

History: Adopted March 12, 1992; Amended May 7, 1993; Amended June 5, 1998; Amended October 7, 2010; Amended June 9, 2011; Amended December 4, 2014; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 15: NURSE PRACTITIONER REGISTRATION AND SUPERVISION

REPEALED: OCTOBER 25, 1993; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 16: PHYSICIANS, HIV, HBV AND HCV

Arkansas Code §17-95-409 (G) and (J) provides that the Arkansas State Medical Board may revoke or suspend a license if the practitioner is grossly negligent and becomes physically incompetent to practice medicine to such an extent as to endanger the public.

Public Law 102-141 passed in the First Session of the 102nd Congress of the United States of America approved on 28 October, 1991 provides that the states will establish guidelines to apply to health professionals and will determine appropriate disciplinary and other actions to ensure compliance with those guidelines in order to prevent the transmission of human immunodeficiency syndrome and hepatitis B virus during exposure-prone invasive procedures except for emergency situation where the patient's life or limb is in danger.

DEFINITIONS:

As used in this Rule the term:

1. HIV means the human immunodeficiency virus, whether HIV-1 or HIV-2.
2. HIV seropositive means with respect to a practitioner, that a test under the criteria of the Federal Centers for Disease Control or approved by the Arkansas State Medical Board has confirmed the presence of HIV antibodies.
3. HBV means the hepatitis B virus.
4. HCV means the hepatitis C virus.
5. HbeAg seropositive means with respect to a practitioner, that a test of the practitioner's blood under the criteria of the Federal Centers for Disease Control or approved by the Arkansas State Medical Board has confirmed the presence of the hepatitis Be antigens.
6. Body fluids means amniotic, pericardial, peritoneal, pleural, synovial and cerebrospinal fluids, semen, vaginal secretions and other body fluids, secretions and excretions containing visible blood.
7. Exposure-prone Procedure means an invasive procedure in which there is a significant risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient.
8. Invasive procedure means any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane or percutaneous wound of the human body.
9. Practitioner means physician or physician's trained assistant, who performs or participates in an invasive procedure or functions ancillary to invasive procedures.

GENERAL REQUIREMENTS:

10. A practitioner who performs or participates in an invasive procedure or performs a function ancillary to an invasive procedure shall, in the performance of or participation in any such procedure or function be familiar with, observe and rigorously adhere to both general infection control practices in universal blood and body fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of HBV, HVC or HIV from a practitioner to a patient, from a patient to a practitioner, or from a patient to a patient.
11. Universal blood and body fluid precautions for purposes of this section, adherence to the universal blood and body fluid precautions requires observance of the following minimum standards: Protective Barriers:

    A practitioner shall routinely use appropriate barrier precautions to prevent skin and mucous membrane contact with blood and other bodily fluids of the patient, to include:

    (1) Gloves shall be used by the physician and direct care staff during treatment, which involved contact with items potentially contaminated with the patient's bodily fluids. Fresh gloves shall be used for all such patient contact. Gloves shall not be washed or reused for any purpose. The same pair of gloves shall not be used, removed, and reused for the same patient at the same visit or for any other purpose.

    (2) Masks shall be worn by the physician and direct care staff when splatter or aerosol is likely. Masks shall be worn during surgical procedures except in those specific instances in which the physician determines that the use of a mask would prevent the delivery of health care services or would increase the hazard and risk to his or her patient

    (3) Protective eyewear shall be worn by the physician and offered to all patients during times when splatter or aerosol is expected.

    (4) Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other bodily fluids. Hands shall be washed immediately after gloves are removed.

PERCUTANEOUS PRECAUTIONS:

12. A practitioner shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles;

and when handling sharp instruments after procedures. If a needle stick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needle stick injuries, needles should not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed for disposal in puncture-resistant containers located as close as practical to the use area. Large-bore reusable needles should be placed in puncture-resistant containers for transport to the reprocessing area.

13. Resuscitation Devices. To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.
14. Sterilization and Disinfection. Instruments or devices that enter sterile tissue or the vascular system of any patient or through which blood flows should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized or receive high-level disinfection. Sterile disposable needles shall be used. The same needle may be recapped with a single-handed recapping technique or recapping device and subsequently reused for the same patient during the same visit.
15. A practitioner who is HbeAg seropositive or HIV seropositive, or who otherwise knows or should know that he or she carries and is capable of transmitting HBV, HCV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure except as provided in this Rule:
16. A practitioner may participate in exposure-prone procedure with a patient when each of the following four conditions have been met:
    (a) The practitioner has affirmatively advised the patient, or the patient's lawfully authorized representative, that the practitioner has been diagnosed as HbeAg seropositive and/or HIV seropositive and/or HCV positive, as the case may be.
    (b) The patient, or the patient's lawfully authorized representative, has been advised of the risk of the practitioner's transmission of HBV, HCV and/or HIV to the patient during an exposure-prone procedure. The practitioner shall personally communicate such information to the patient or the patient's representative. The physician shall also communicate such information to the patient's physician.
    (c) The patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:
        (1) Identification of the exposure-prone procedure to be performed by the practitioner with respect to the patient.
        (2) An acknowledgment that the advice required by Subsections (15)(a) and (15)(b) hereabove have been given to and understood by the patient or the patient's representative; and
        (3) The consent of the patient, or the patient's lawfully authorized representative, to the performance of or participation in the designated procedure by the practitioner.
    (d) The practitioner's HbeAg and/or HIV seropositivity and/or HCV positivity has been affirmatively disclosed to each practitioner or other health care personnel who participates or assists in the exposure-prone procedure.

REVOCATION OF CONSENT:

17. Consent given pursuant to this section may be revoked by a patient or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the practitioner expressing an intent to revoke, rescind or withdraw such consent.

REPORTS AND INFORMATION CONFIDENTIALITY:

18. Reports and information furnished to the Arkansas State Medical Board relative to the HbeAg, HCV or HIV status of a practitioner shall not be deemed to constitute a public record but shall be deemed and maintained by the Board as confidential and privileged as a medical record and shall not be subject to disclosure by means of subpoena in any judicial, administrative or investigative proceeding; provided that the practitioner adheres to the Rules of the Board and is willing to subject himself to counseling, review and monitoring by the Board or its designated agent.
19. Upon the Board learning that a practitioner is HbeAg or HIV seropositive the Board, or the Board's agents, will make contact with said practitioner, review the Rules of the Board and set up a process of monitoring that individual's practice.
20. The monitoring of practitioners and disciplining of practitioners as set forth in this Rule will be reported to the Arkansas Department of Health but will remain confidential.

21. If the practitioner does not comply with this Rule of the Board that practitioner will be deemed to have been grossly negligent and committed ignorant malpractice and further that practitioner would be physically incompetent to practice medicine to such an extent as to endanger the public; thus subjecting the practitioner to a disciplinary hearing and possibly sanctioning of his license.

History**:** Adopted May 6, 1993; Amended October 4, 2001; Amended October 2, 2003; Amended March 22, 2022; Effective July 11, 2022

RULE No. 17: CONTINUING MEDICAL EDUCATION

A. Pursuant to Ark. Code Ann. 17-80-104, each person holding an active license to practice medicine in the State of Arkansas shall complete twenty (20) credit hours per year of continuing medical education. Fifty (50%) percent of said hours shall be in subjects pertaining to the physician's primary area of practice, and designated as Category I as defined in Paragraph B.4 below. One hour of credit will be allowed for each clock hour of participation and approved continuing education activities, unless otherwise designated in Subsection B below.

B. Approved continuing medical education activities include the following:

1. Internship, residency or fellowship in a teaching institution approved by the Accreditation Counsel for Graduate Medical Education (ACGME) or programs approved by the American Osteopathic Association Council on Postdoctoral Training or the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. One credit hour may be claimed for each full day of training. No other credit may be claimed during the time a physician is in full-time training in an accredited program. Less than full-time study may be claimed on a pro-rata basis.
2. Education for an advanced degree in a medical or medically related field in a teaching institution approved by the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. One credit hour may be claimed for each full day of study. Less than full-time study may be claimed on a pro-rata basis.
3. Full-time research in a teaching institution approved by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association Bureau of Professional Education or the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. One credit hour may be claimed for each full day of research. Less than full-time study may be claimed on a pro-rata basis.
4. Activities designated as Category 1 by an organization accredited by the Accreditation Council on Continuing Medical Education or a state medical society or be explicitly approved for Category 1 by American Medical Association, or the Arkansas State Medical Board, or by the Council on Continuing Medical Education of the American Osteopathic Association. Activities designated as prescribed hours by the American Academy of Family Physicians.
5. Medical education programs may also be claimed for credit if said medical education programs have not been designated for specific categories referred to in Number 4 above, and are designed to provide necessary understanding of current developments, skills, procedures or treatment related to the practice of medicine.
6. Serving as an instructor of medical students, house staff, other physicians or allied health professionals from a hospital or institution with a formal training program, where the instruction activities are such as will provide the licentiate with necessary understanding of current developments, skills, procedures or treatment related to the practice of medicine.
7. Publication or presentation of a medical paper, report, book, that is authored and published, and deals with current developments, skills, procedures or treatment related to the practice of medicine. Credits may be claimed only once for materials, presented. Credits may be claimed as of the date of the publication or presentation. One credit hour may be reported per hour of preparation, writing and/or presentation.
8. Credit hours may be earned for any of the following activities which provide necessary understanding of current developments, skills, procedures or treatment related to the practice of medicine; (a) completion of a medical education program based on self-instruction which utilized videotapes, audiotapes, films, filmstrips, slides, radio broadcasts and computers; (b) independent reading of scientific journals and books; (c) preparation of the specialty Board certification or recertification examinations; (d) participation on a staff committee or quality of care and/or utilization review in a hospital or institution or government agency.

C. Each year, each physician and physician assistant shall obtain at least one (1) hour of CME credit specifically regarding the prescribing of opioids and benzodiazepines. The one hour may be included in the twenty (20)

credit hours per year of continuing medical education required in Paragraph A of this rule and shall not constitute an additional hour of CME per year.

D. If a person holding an active license to practice medicine in this State fails to meet the foregoing requirements because of illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstances, the Board upon appropriate written application may grant an extension of time to complete same on an individual basis.

E. Each year, with the application for renewal of an active license to practice medicine in this State, the Board will include a form which requires the person holding the license to certify by signature, under penalty of perjury, that he or she has met the stipulated continuing medical education requirements. In addition, the Board may randomly require physicians submitting such a certification to demonstrate, prior to renewal of license, satisfaction of the continuing medical education requirements stated in his or her certification. A copy of an American Medical Association Physicians Recognition Award (AMA PRA) certificate awarded to the physician and covering the reporting period shall be bona fide evidence of meeting the requirements of the Arkansas State Medical Board. A copy of the American Osteopathic Association or the State Osteopathic Association certificate of continuing medical education completion or the American Osteopathic Association's individual activity report shall be bona fide evidence of meeting the requirements of the Arkansas State Medical Board.

F. Continuing medical education records must be kept by the licensee in an orderly manner. All records relative to continuing medical education must be maintained by the licensee for at least three (3) years from the end of the reporting period. The records or copies of the forms must be provided or made available to the Arkansas State Medical Board upon request.

G. Failure to complete continuing medical education hours as required or failure to be able to produce records reflecting that one has completed the required minimum continuing medical education hours shall be a violation of the Medical Practices Act and may result in the licensee having his license suspended and/or revoked.

History: Adopted September 14, 1996; Amended August 5, 2010; Amended June 9, 2011; Amended February 2, 2012; Amended April 5, 2018/Effective June 13, 2018; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 18: FEE SCHEDULE FOR CENTRALIZED VERIFICATION SERVICE

Pursuant to Ark. Code Ann. § 17-95-107(d)(7) provides that the Board may charge credentialing organizations a reasonable fee for the use of credentialing services as established by rule and regulation.

Credentialing Organizations will be charged the following fees for requests for physician information:

A.	One time entity setup fee:	$250.00
B.	Fees for individual information requests:	
	Initial Credentialing Information	$80.00
	Recredentialing Information	$60.00
	Recredentialing Information (Out of birth month cycle) *Effective January 1, 2003*	$80.00
	"Expedited Service" Credentialing Information (Information requested in five (5) business days or less)	$250.00
	Credentialing or Recredentialing information concerning out of state physicians requiring a license pursuant to A.C.A. § 17-95-206	$80.00

History: Adopted June 6, 1996; Amended December 6, 2001; Amended December 6, 2007; Amended April 12, 2012; Amended September 24, 2019; Amended February 26, 2024.

RULE No. 19: PAIN MANAGEMENT PROGRAMS

A. Physicians operating a pain management program for specific syndromes...that is headache, low back pain, pain associated with malignancies, or temporomandibular joint dysfunctions...are expected to meet the standards set forth in this section or in fact be in violation of the Medical Practice Act by exhibiting gross negligence or ignorant malpractice.

B. Definitions:

1. Chronic Pain Syndrome: Any set of verbal and/or nonverbal behaviors that: (1) involves the complaint of enduring pain, (2) differs significantly from a person's premorbid status, (3) has not responded to previous

appropriate medical and/or surgical treatment, and (4) interferes with a person's physical, psychological and social and/or vocational functioning.

2. Chronic Pain Management Program provides coordinated, goal-oriented, interdisciplinary team services to reduce pain, improving functioning, and decrease the dependence on the health care system of persons with chronic pain syndrome.
3. "Chronic nonmalignant pain" means pain requiring more than three (3) consecutive months of prescriptions for:
    i. An opioid that is written for more than the equivalent of ninety (90) tablets, each containing five milligrams (5mg) of hydrocodone;
    ii. A morphine equivalent dose of more than fifteen milligrams (15mg) per day; or
    iii. In the specific case of tramadol, a dose of fifty milligrams (50mg) per one hundred twenty (120) tablets;
4. "Opioid" means a drug or medication that relieves pain, including without limitation:
    i. Hydrocodone;
    ii. Oxycodone;
    iii. Morphine;
    iv. Codeine;
    v. Heroin; and
    vi. Fentanyl;
5. "Prescriber" means a practitioner or other authorized person who prescribes a Schedule II, III, IV, or V controlled substance.

C. The following standards apply to both inpatient and outpatient programs and the physician should conform to the same.
    1. There should be medical supervision of physician prescribed services.
    2. A licensee should obtain a history and conduct a physical examination prior to or immediately following admission of a person to the Chronic Pain Management Program.
    3. At the time of admission to the program, the patient and the physician should enter into a written contract stating the following:
        a. The presenting problems of the person served.
        b. The goals and expected benefits of admission.
        c. The initial estimated time frame for goal accomplishment.
        d. Services needed.

D. In order to provide a safe pain program, the scope and intensity of medical services should relate to the medical care needs of the person served. The treating physician of the patient should be available for medical services. Services for the patient in a Chronic Pain Management Program can be provided by a coordinated interdisciplinary team of professionals other than physicians. The members of the core team, though each may not serve every person should include:
    a. A Physician.
    b. A clinical psychologist or psychiatrist.
    c. An occupational therapist.
    d. A physical therapist.
    e. A rehabilitation nurse.

E. A physician managing a Chronic Pain Management Program to a patient should meet the following criteria:
    1. Three years experience in the interdisciplinary management of persons with chronic pain.
    2. Participation in active education on pain management at a local or national level.
    3. Board certification in a medical specialty or completion of training sufficient to qualify for examinations by members of the American Board of Medical Specialties.
    4. Two years experience in the medical direction of an interdisciplinary Chronic Pain Program or at least six (6) months of pain fellowship in an interdisciplinary Chronic Pain Program.

    The physician must have completed and maintained at least one (1) of the following:
    5. Attendance at one (1) meeting per year of a regional and national pain society.
    6. Presentation of an abstract to a regional national pain society.
    7. Publication on a pain topic in a peer review journal.
    8. Membership in a pain society at a regional or national level.

F. Treatment of Chronic Malignant Pain:

Patient evaluation – a patient who is being treated with controlled substances for chronic nonmalignant pain shall be evaluated at least one (1) time every six (6) months by a physician who is licensed by the Arkansas State Medical Board.

a. Prescriber requirements:
    i. For a patient with chronic nonmalignant pain, a prescriber, at a minimum and in addition to any additional requirements of the Arkansas State Medical Board, shall:
        1. Check the prescriptive history of the patient on the Prescription Drug Monitoring Program at least every six (6) months;
        2. Have a signed pain contract with the patient that states, at a minimum, the expectations of the prescriber for the behavior of the patient which may include:
            a. A requirement for random urine drug screenings to help ensure that the patient is abiding by the requirements of the contract; and
            b. A requirement for random pill counts to ensure compliance with the prescription.
    ii. The requirements of this section shall not apply to a patient:
        1. Whose pain medications are being prescribed for a malignant condition:
        2. With a terminal condition;
        3. Who is a resident of a licensed healthcare facility;
        4. Who is enrolled in a hospice program; or
        5. Who is in an inpatient or outpatient palliative care program.

A prescriber who has been found by his or her licensing board to be in violation of a rule or law involving prescription drugs shall be required by the Arkansas State Medical Board to register with the Prescription Drug Monitoring Program and access patient information before writing a prescription for an opioid. The licensing board, in its discretion, may remove this requirement after a period of time if the board deems removal of the requirement appropriate.

History: Adopted December 11, 1996; Amended October 1, 2015, Effective December 14, 2015; Amended March 22, 2022, Effective July 11, 2022.

RULE No. 20: PRACTICE OF MEDICINE BY A NON-RESIDENT

Pursuant to Ark. Code Ann. 17-95-401 and 17-95-202, the Arkansas State Medical Board sets forth the following Rule concerning the practice of medicine by a non-resident physicians or osteopaths:

Any non-resident physician or osteopath who, while located outside the State of Arkansas, provides diagnostic or treatment services to patients within the State of Arkansas on a regular basis or under a contract with the health care provider, a clinic located in this state, or a health care facility, is engaged in the practice of medicine or osteopathy in this state and, therefore must obtain a license to practice medicine in this State. Any nonresident physician or osteopath who, while located outside of the state, consults on an irregular basis with a physician or osteopath who holds a license to practice medicine within the State of Arkansas and who is located in this State, is not required to obtain a license to practice medicine in the State of Arkansas.

History**:** Adopted March 14, 1997; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 21: ANOREXIANT DRUG GUIDELINES

Short term treatment of obesity with Schedule III and IV drugs.

A physician will be considered as exhibiting gross negligence or ignorant malpractice if he prescribes Schedule III and IV scheduled drugs under the Uniform Controlled Substance Act for obesity, except in conformity with the requirements as set below:

1. Anorexiant drugs listed on Schedule III and IV under the Uniform Controlled Substances Act shall not be dispensed or prescribed for the treatment of obesity, except in conformity with the following minimal requirements. Schedule II drugs may not be used in the treatment of obesity (see Rule 7 of the Arkansas State Medical Board.)
2. The physician should be knowledgeable in the pathophysiology and treatment of obesity. An established physician/patient relationship should exist. The patient should be age 18 or older, or have written consent from parent or guardian. The medication should only be an adjunct to a comprehensive weight loss program focused on appropriate nutrition education, a change in lifestyle, counseling, and an individualized exercise

program. The physician should determine whether or not the patient has made a substantial good faith effort to lose weight through diet and alteration of lifestyle prior to beginning drug therapy. The treating physician shall take a complete history of the patient and shall give a complete physical examination. The physical examination shall include checking the blood pressure and pulse, examining the heart and lungs, recording weight and height, and administering any other appropriate diagnostic tests. The history and examination shall be sufficient to determine if the patient has previously been drug dependent, to determine if there is a metabolic cause of the obesity which would make anorexiant drugs inappropriate (e.g. hypothyroidism) and to determine if other contraindications to use of the drugs exist. The treating physician shall enter each of those findings in the patient's records.

3. The physician should discuss with the patient different approaches to the treatment of obesity, and the risks and benefits associated with each approach. Risks should include potential side effects (e.g. cardiovascular and pulmonary complications, as outlined in the package insert), as well as the potential for lack of success with weight loss. The physician should be aware of potential drug interactions between anorexiants, and other centrally acting drugs. The treating physician shall prescribe a diet for weight loss and appropriate counseling regarding lifestyle change, and record these changes on the patient record. Consideration on the use of anorexiant medications should take into account the degree of overweight, and concomitant medical conditions. The body mass index (BMI) should be used as a guide to determine the degree of overweight. The BMI is defined as the weight (kg) divided by the height (meters squared). A chart to determine BMI is enclosed. In general, anorexiant medication should only be used if the BMI is more than 27. In the case of concomitant obesity-related medical conditions, anorexiant medications may be considered with a BMI above 25. Obesity related medical conditions include diabetes, hypertension, dyslipidemia, cardiovascular disease, sleep apnea, psychological conditions, disc disease and severe arthritis of the lower extremities.
4. The treating physician shall prescribe a daily dosage that does not exceed the dosage recommended in the manufacturer's prescribing information for the drug prescribed or dispensed, unless peer reviewed medical literature exists in support of this cause.
5. The treating physician shall not dispense or prescribe more than a 30-day supply for a patient on the first visit. The patient shall be weighed at each visit prior to dispensing or prescribing an additional supply of the drug and the weight shall be entered in the patient's record.
6. At the time of each return patient visit, the treating physician shall monitor progress of the patient. The patient's weight, blood pressure, pulse, heart and lungs shall be checked. The findings shall be entered in the patient's record. In addition to any side effects of the medications, the physician should perform appropriate exams and tests to monitor the safety of any weight loss. This may include a more detailed dietary questionnaire, serum electrolytes, blood glucose, and other tests deemed appropriate. The Rule for patients who are no longer obese for such period of time as to allow the patient to adapt to a lifestyle change for no more than an additional sixty (60) days.
7. Except as otherwise provided by this rule, Schedule III or IV anorexiant drugs are only recommended for short-term use (e.g. 90 days). However, the treating physician may extend therapy beyond 90 days under the following conditions:
    a. When the anorexiant drugs are indicated for treatment of diseases other than obesity; and
    b. When, in the physician's professional judgment, the treating physician is observing and recording significant progress or benefit from the drugs and no adverse effects occur that are related to the treatment. These observations shall be documented in the patient's record.
    c. When the drug involved has been FDA approved for longer use or maintenance.
8. Specialty clinics which market themselves to the public as centers for the treatment of obesity will be required to prescribe a comprehensive behavior modification program and dietary counseling directed by a professional during the course of treatment.
9. The Board encourages any physician who prescribes medications pursuant to Rule 21 to make themselves fully aware of the guidelines set forth by the American Heart Association for the management of obesity.

History: Adopted March 13, 1998; Amended August 6, 2015, Effective December 14, 2015; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 22: LASER SURGERY GUIDELINES

Pursuant to Ark. Code Ann. 17-95-202, the practice of medicine involves the use of surgery for the diagnosing and treatment of human disease, ailment, injury, deformity, or other physical conditions. Surgery is further defined by this Board as any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical means, to include

the use of lasers. The Board further finds that the use of medical lasers on human beings, for therapeutic or cosmetic purposes, constitutes the practice of medicine.

Under appropriate circumstances, that being the performing of minor procedures, a physician may delegate certain procedures and services to appropriately train non-physician office personnel. The physician, when delegating these minor procedures, must comply with the following protocol:

1. The physician must personally diagnose the condition of the patient and prescribe the treatment and procedure to be performed.
2. The physician may delegate the performance of certain tasks in the treatment only to trained non-physician personnel skilled in that procedure.
3. The physician must make himself available to respond to the patient should there be any complications from the minor procedure.
4. The physician should ensure and document patient records that adequately describe the condition of the patient and the procedure performed, and who performed said procedure.

A physician who does not comply with the above-stated protocol when performing minor procedures will be considered as exhibiting gross negligence, subjecting the physician to a disciplinary hearing before the Board, pursuant to the Medical Practices Act and the Rules of the Board.

Ark. Code Ann. 17-95-409(a)(2)(g) states that the Board may revoke an existing license, or suspend the same, if a physician has committed unprofessional conduct, further defined as committing gross negligence or ignorant malpractice. The Board finds that a physician has, in fact, committed gross negligence if he performs laser surgery on patients without benefit of: a) clinical experience in the use of lasers; b) training of clinical management of patients; c) continuing medical education courses in the use of lasers; d) providing appropriate preoperative, operative, and post operative management.

History: Adopted June 5, 1998; Amended June 2, 2005; Amended March 22, 2022, Effective July 11, 2022.

RULE No. 23: MALPRACTICE REPORTING

A.C.A. § 17-95-103 requires every physician licensed to practice medicine and surgery in the State of Arkansas to report to the Arkansas State Medical Board within ten days after receipt or notification of any claim or filing of a lawsuit against him charging him with medical malpractice. The notice from the physician to the Board shall be sent by registered letter upon such forms as may be obtained at the office of the Board. In addition to completing the form, the physician should attach to the form a copy of the complaint if a lawsuit has been filed against him.

Should a physician fail to comply with the terms of Ark. Code Ann. § 17-95-103 and this Rule, then the same, shall be cause for revocation, suspension, or probation or monetary fine as may be determined by the Board; after the bringing of formal charges and notifying the physician as required by the Medical Practices Act and the Administrative Procedure Act.

History: Adopted August 12, 1999; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 24: RULES GOVERNING PHYSICIAN ASSISTANTS

1. A physician assistant must possess a license issued by the Arkansas State Medical Board prior to engaging in such occupation.
2. To obtain a license from the Arkansas State Medical Board the physician assistant must do the following:
   a. Answer all questions to include the providing of all documentation requested on an application form as provided by the Arkansas State Medical Board;
   b. Pay the required fee for licensure as delineated elsewhere in this rule;
   c. Provide proof of successful completion of Physician Assistant National Certifying Examination, as administered by the National Commission on Certification of Physician Assistants;
   d. Certify and provide such documentation, as the Arkansas State Medical Board should require that the applicant is mentally and physically able to engage safely in the role as a physician assistant;
   e. Certify that the applicant is not under any current discipline, revocation, suspension or probation or investigation from any other licensing board;
   f. Provide letters of recommendation as to quality of practice history;
   g. The applicant should be at least 21 years of age;

h. Show proof of graduation with a Bachelor's Degree from an accredited college or university or prior service as a military corpsman;
i. Provide proof of graduation from a physician assistant education program recognized by the Accreditation Review Commission on Education for the Physician Assistant or by its successor agency, and has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;
j. The submission to the Board of a delegation agreement delineating the scope of practice that the physician assistant will engage in, the program of evaluation and supervision by the supervising physician;

3. If an applicant for a license submits all of the required information, complies with all the requirements in paragraph 2, except paragraph 2 (j) and the same is reviewed and approved by the Board, then the applicant may request a Letter of Intent from the Board and the Board may issue the same. Said Letter of Intent from the Board will state that the applicant has complied with all licensure requirements of the Board except the submission of a Delegation Agreement and supervising physician and that upon those being submitted to the Board, it is the intent of the board to license the applicant as a physician assistant. Said Letter of Intent will expire six (6) months from date of issue.
4. The Delegation Agreement
   a. This delegation agreement is to be completed and signed by the physician assistant and his/her designated supervising physician. Said delegation agreement will be written in the form issued by the Arkansas State Medical Board. Said delegation agreement must be accepted by the Arkansas State Medical Board prior to licensure of the physician assistant.
   b. The delegation agreement as completed by the physician assistant and the supervising physician will include the following:
      1) area or type of practice;
      2) location of practice;
      3) geographic range of supervising physician;
      4) the type and frequency of supervision by the supervising physician;
      5) the process of evaluation by the supervising physician;
      6) the name of the supervising physician;
      7) the qualifications of the supervising physician in the area or type of practice that the physician assistant will be functioning in;
      8) the type of drug prescribing authorization delegated to the physician assistant by the supervising physician;
      9) the name of the back-up supervising physician(s) and a description of when the back-up supervising physician(s) will be utilized.
   c. A copy of the approved delegation agreement must be kept at the practice location of the physician assistant.
5. a. A physician assistant must be authorized by his supervising physician to prescribe legend drugs and scheduled medication for patients. Said authorization must be stated in the delegation agreement and the request approved by the Board. A supervising physician may only authorize a physician assistant to prescribe schedule medication that the physician is authorized to prescribe. A physician assistant may only be authorized to receive, prescribe, order and administer schedule 2 through 5 medications, except that a physician assistant may prescribe hydrocodone combination products reclassified from Schedule 3 to Schedule 2 as of October 6, 2014, if authorized by the physician assistant's supervising physician, and in accord with other requirements of the section. A physician assistant's prescriptive authority extends to drugs in Schedule 2, except regarding hydrocodone as stated above, only if the prescription is for: (1) an opioid, if the prescription is only for a five-day period or less; or (2) a stimulant, if the prescription was originally initiated by a physician; the physician has evaluated the patient within six (6) months before the physician assistant issues a prescription; and the prescription by the physician assistant is to treat the same condition as the original prescription.
   b. The physician assistant will make an entry in the patient chart noting the name of the medication, the strength, the dosage, the quantity prescribed, the directions, the number of refills, together with the signature of the physician assistant and the printed name of the supervising physician for every prescription written for a patient by the physician assistant.
   c. Patient care orders generated by a physician assistant shall be construed as having the same medical, health, and legal force and effect as if the orders were generated by the physician assistant's supervising physician. The orders shall be complied with and carried out as if the orders has been issued by the physician assistant's supervising physician.
   d. Physician assistants who prescribe controlled substances shall register with the Drug Enforcement Administration as part of the Drug Enforcement Administration's Mid-Level Practitioner Registry, 21 C.F.R. Part 1300, 58 FR 3 1 171-31175, and the Controlled Substances Act.

6. A supervising physician and/or back-up supervising physician(s) should be available for immediate telephone contact with the physician assistant any time the physician assistant is rendering services to the public.
7. a. Physician assistants provide medical services to patients consistent with the physician assistant's license, area of practice, or authorized under the delegation agreement. Physician assistants will have to provide medical services to the patients consistent with the standards that a licensed physician would provide to a patient. As such, the physician assistant must comply with the standards of medical care of a licensed physician as stated in the Medical Practices Act, the Rules of the Board and the Orders of the Arkansas State Medical Board. A violation of said standards can result in the revocation or suspension of the license when ordered by the Board after disciplinary charges are brought.
   b. A physician assistant must clearly identify himself or herself to the patient by displaying an appropriate designation, that is a badge, name plate with the words "physician assistant" appearing thereon.
   c. (1) If authorized by the supervising physician, a physician assistant shall be:
      a) Identified as the treating provider in billing and claims processes when the physician assistant delivered the medical services to the patient; and
      b) Allowed to file claims as the billing provider for medical services delivered by the physician assistant to a patient that:
         (i) Is a Medicaid beneficiary; or
         (ii) Has a health benefit plan provided by a healthcare insurer.

   (2) Under this section, a health benefit plan provided by a healthcare insurer or the Arkansas Medicaid Program shall not require the physical presence of the supervising physician as provided in § 17-105-101(3).
   d. A physician assistant may pronounce death and may authenticate with his or her signature a form that may be authenticated by a supervising physician's signature as authorized under A.C.A. §17-80-120.
   e. A physician assistant may render care within his or her scope of practice when responding to a need for medical care created by an emergency or a state or local disaster if the physician assistant is: (1) licensed in this state; (2) licensed or authorized to practice in another state or territory; or (3) credentialed as a physician assistant by a federal employer. A physician assistant who voluntarily and gratuitously, other than in the ordinary course of his or her employment or practice, renders emergency medical assistance is not liable for civil damages for personal injuries that result from acts or omissions of the physician assistant that may constitute ordinary negligence.
8. The supervising physician is liable for the acts of a physician assistant whom he or she is supervising if said acts of the physician assistant arise out of the powers granted the physician assistant by the supervising physician. The supervising physician may have charges brought against him by the Arkansas State Medical Board and receive sanctions if the physician assistant should violate the standards of medical practice as set forth in the Medical Practices Act, the Rules of the Board and the standards of the medical community.

   A supervising physician will notify the Arkansas State Medical Board within 10 days after notification of a claim or filing of a lawsuit for medical malpractice against a Physician Assistant, whom he supervises. Notice to the Board shall be sent to the office of the Board and upon such forms as may be approved by the Board. If the malpractice claim is in the form of a complaint in a filed lawsuit, a copy of the complaint shall be furnished to the Board along with the notification required by this Section.
9. Continuing Medical Education:
   a. A physician assistant who holds an active license to practice in the State of Arkansas shall complete 20 credit hours per year continuing medical education.
   b. If a person holding an active license as a physician assistant in this State fails to meet the foregoing requirement because of illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstances, the Board upon appropriate written application may grant an extension of time to complete the same on an individual basis.
   c. Each year, with the application for renewal of an active license as a physician assistant in this state, the Board will include a form which requires the person holding the license to certify by signature, under penalty of perjury, and disciplined by the Board, that he or she has met the stipulating continuing medical education requirements. In addition, the Board may randomly require physician assistants submitting such a certification to demonstrate, prior to renewal of license, satisfaction of continuing medical education requirements stated in his or her certification.
   d. Continuing medical education records must be kept by the licensee in an orderly manner. All records relative to continuing medical education must be maintained by the licensee for at least three years from the end of the reporting period. The records or copies of the forms must be provided or made available to the Arkansas State

Medical Board.

e. Failure to complete continuing education hours as required or failure to be able to produce records reflecting that one has completed the required minimum medical education hours shall be a violation and may result in the licensee having his license suspended and/or revoked.

f. A physician assistant who is authorized to prescribe Schedule II hydrocodone combination products reclassified from Schedule 3 to Schedule 2 as of October 6, 2014, must complete at least five (5) continuing education hours in the area of pain management.

g. Each year, each physician assistant shall obtain at least one (1) hour of CME credit specifically regarding the prescribing of opioids and benzodiazepines. The one hour may be included in the twenty (20) credit hours per year of continuing medical education required and shall not constitute an additional hour of CME per year.

10. Physician Assistants, HIV, HBV and HCV: Physicians assistants shall adhere to Rule 16 concerning HIV, HBV, and HCV.

History: Adopted December 7, 1977; Amended October 9, 1999; Amended December 10, 1999; Amended February 4, 2000; Amended April 8, 2005; Amended June 5, 2008; Amended April 12, 2012; Amended October 1, 2015, Effective December 14, 2015; Amended December 7, 2017, Effective June 12, 2018; Amended June 4, 2020, Effective August 7, 2020; Amended June 28, 2022, Effective November 19, 2022; Effective February 26, 2024.

Replaced Rule 4

RULE No. 25: CENTRALIZED CREDENTIALS VERIFICATION SERVICE ADVISORY COMMITTEE GUIDELINES

1. PURPOSE. The Centralized Credentials Verification Advisory Committee (CCVSAC) is established in accordance with Act 1410 of 1999 for the purpose of providing assistance to the Arkansas State Medical Board in operating a credentialing service to be used by credentialing organizations, and health care professionals. The CCVSAC shall advocate the system throughout the state, and work with customers to identify opportunities to improve the system.
2. MEMBERSHIP. The CCVSAC will consist of ten (10) standing members who are recommended by the CCVSAC and appointed by the Arkansas State Medical Board, at least six (6) of which shall be representatives of credentialing organizations which must comply with Act 1410. Of these six (6) members, at least two (2) shall be representatives of licensed Arkansas hospitals and at least two (2) shall be representatives of insurers or health maintenance organizations. The term of each member shall be annual, and members may serve consecutive terms. Ad hoc members will be appointed as necessary by the CCVSAC. Committee members will complete and file with the secretary, a conflict of interest disclosure statement annually. This statement will be retained in the permanent records of the CCVSAC.
3. OFFICERS. The Arkansas State Medical Board will appoint the Chairman of the CCVSAC. The CCVSAC will elect a Vice-Chairman and any other officers or workgroups desired. CCVSAC meetings will be staffed by Arkansas State Medical Board personnel.
4. MEETINGS. Meetings of the CCVSAC will be held on a quarterly basis, or more frequently if needed. CCVSAC members will be notified of changes in operations of the credentials verification service between meetings. CCVSAC members will be consulted or informed of major operational changes before such changes are implemented.
5. POLICIES. It is the intent of the Arkansas State Medical Board to provide the CCVSAC maximum input into policies concerning the operation of the credentialing verification service. Policies will be developed and adopted concerning:
   a. Fees to be charged for use of the service. Fees will be based on costs of operating the service, and the costs shall be shared pursuant to Act 1410.
   b. Availability of the service. Availability includes time required to gain access, time allowed in the system and geographic availability.
   c. Accessibility and Security of the service.
      1. Release of information from physicians.
      2. Approval for users to gain access.
      3. Password identification requirements.
   d. Audit Privileges for records maintained by the Arkansas State Medical Board. (The CCVSAC will represent all users and will perform periodic audits in accordance with established procedure [POLICY FOR AUDITS, POLICY NO. 95-4] to ensure the integrity of Arkansas State Medical Board processes and information available.)
   e. Contract Format development for subscribers who use the service.

f. Other Policies as needed for operation of the credentials verification service.

6. APPROVALS. A quorum (fifty percent of the CCVSAC) must be present to approve changes in policies or other actions. Proxies may be given to other CCVSAC members voting. A majority of voting members will be considered sufficient to provide a recommendation to the Arkansas State Medical Board for implementation.

History: Adopted February 4, 2000; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 26: GOVERNING INFORMED CONSENT FOR AN ABORTION

Act 353 of 2001 Regular Session of the 83rd General Assembly required the Arkansas State Medical Board to pass such regulation that may be necessary to ensure that physicians who perform abortions obtain the correct informed consent from their patients. Arkansas Code Annotated § 17-95-409(a)(2)(p) provides that a physician may have his license revoked or suspended or other sanctions imposed if he is found by the Board to have violated a regulation of the Board.

A physician shall not perform an abortion in the State of Arkansas, except with the voluntary and informed consent of the patient. Except in the case of a medical emergency, consent to an abortion is considered voluntary and informed if, and only if:

1. Prior to and in no event on the same day as the abortion procedure, the patient is told the following, by telephone or in person, by the physician who is to perform the abortion, or by a referring physician or by an agent of either physician:
    1. The name of the physician who will perform the abortion procedure;
    2. The medical risks associated with the particular abortion procedure to be employed;
    3. The probable gestational period of the fetus at the time the abortion is to be performed; and
    4. The medical risks associated with carrying the fetus to term.

The information above may be provided by telephone without the physician or referring physician performing a physical examination or tests of the patient. If the information above is supplied by telephone, the information may be based on both facts supplied to the physician by the patient and any other relevant information that is reasonably available to the physician. The information described herein may not be provided by a tape recording, but shall be provided during a consultation in which the physician or his agent is able to ask questions of the patient and the patient is able to ask questions of the physician or his agent. If a physical examination, test, or other new information subsequently indicates, in the medical judgment of the physician, the need for a revision of the information previously supplied to the patient, the revised information may be communicated to the patient at any time prior to the performance of the procedure. Nothing in this regulation is to be construed to preclude providing the information through a translator in a language understood by the patient.

2. Prior to and in no event on the same day of the abortion, the patient is to be informed, by telephone or in person, by the physician who is to perform the abortion procedure, or by a referring physician or by an agent for either physician the following:
    a. That medical assistance benefits may be available for the prenatal care, childbirth, and neo-natal care.
    b. That the father is liable to assist in the support of the child, even in instances in which the father has offered to pay for the abortion procedure.
    c. That the patient has the option to review the printed or electronic materials described in this Section 2 and that those materials have been provided by the State of Arkansas and that they describe the fetus and list agencies that offer alternatives to the abortion procedure.

That if the patient chooses to exercise her option to view the material in a printed form, the materials shall be mailed to her by a method chosen by the patient, or may view the material via the internet if the patient informs the physician of the specific address of the internet website where the information may be provided. The information required in this Section 2 may be provided by a tape recording if provision is made to record, or otherwise register specifically whether the patient does or does not choose to review the printed materials.

The information required to be distributed by the physician to the patient in Section 2 above may be obtained from the Arkansas Department of Health. No penalty may be imposed by the Arkansas State Medical Board against the

physician until the Arkansas Department of Health has the printed materials available to the physician so that they may be distributed or made available to the patient.

3. Prior to the abortion procedure, and thus the termination of the pregnancy, the patient must certify in writing that the information and options described in Section 1 and 2 above have been furnished to the patient, as well as the fact that the patient has been informed of her option to review the information. The physician, prior to the abortion procedure, must obtain this written certification and maintain that document in the records of the patient.
4. Prior to the abortion procedure being performed, the physician who is to perform the procedure, shall confirm with the patient, that the patient has received the following information:
    a. The medical risks associated with the particular procedure to be employed.
    b. The probable gestational age of the unborn child at the time the abortion is to be performed.
    c. The medical risks associated with carrying the fetus to term.

If in fact, the abortion procedure is performed by a physician on a patient due to a medical emergency, the informed consent requirements stated above are not required. Medical emergency as defined by Arkansas Law means any condition which, on the basis of the physician's good faith clinic judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate termination of her pregnancy to avert her death or for which a delay will create serious risks of substantial and deemed to be irreversible impairment of a major bodily function. In such a case, the physician is to inform the patient that an abortion is necessary to avert her death or that the delay will create a serious risk of substantial and deemed to be irreversible impairment of a major bodily function.

History: Adopted June 7, 2002; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 27: INFORMED CONSENT FOR GASTRIC BYPASS SURGERY

Pursuant to Act 1356 of the 84th General Assembly of 2003, all physicians in this state, prior to performing gastric bypass surgery, also known as open or laparoscopic Roux En Y, will have the patient sign an informed consent form acknowledging that they have been told information about various complication that can result from the surgery. The complications and information the patient must be informed of are as follows:

A. The potential risks, complications and benefits of the weight loss surgery.
B. The alternatives to surgery including non-surgical options.
C. The need for dietary changes, a development of an exercise plan and the possible need for counseling.
D. The importance of proper nutrition, eating a balanced diet and taking vitamin and mineral supplements for the remainder of their life.
E. There is no guarantee of weight loss or long-term weight management as a result of getting the surgery.
F. A lifetime of follow up medical care is required.
G. Lab work will be required annually or more often than that as directed by the physician.
H. Potentially serious complications from the surgery could result in death, further surgery or prolonged hospital stays for the patient.
I. The following surgical complications may arise:
    1. Bleeding, this may require a transfusion of blood or blood products.
    2. Surgical site infections, either superficial or deep to include port sites for laparoscopic access. These could lead to wound breakdowns and hernia formation.
    3. Perforations (leaks) of the stomach or intestine causing peritonitis, subphrenic abscess or enteroenteric or enterocutaneous fistulas.
    4. Sepsis
    5. Systemic Inflammatory Response Syndrome (SIRS)
    6. Adult Respiratory Distress Syndrome (ARDS)
    7. Myocardial infarction (heart attack)
    8. Cardiac rhythm disturbances
    9. Congestive heart failure
    10. Atelectasis
    11. Pneumonia
    12. Pulmonary edema (fluid in the lungs)
    13. Pleural effusions (fluid around the lungs)

14. Injury to adjacent structures, including the spleen, liver, diaphragm, pancreas and colon.
15. Possible removal of the spleen
16. Stroke
17. Kidney failure
18. Pressure sores
19. Deep vein thrombosis (blood clots in the legs or arms)
20. Pulmonary embolism (blood clots migrating to the heart and lungs)
21. Staple line disruption
22. Ulcer formation (marginal ulcer or in the distal stomach)
23. Small bowel obstructions
24. Internal hernias
25. Incisional hernias, this includes port sites for laparoscopic access
26. Dehiscence or evisceration
27. Inadequate or excessive weight loss
28. Kidney stones
29. Gout
30. Encephalopathy
31. Stoma stenosis
32. Urinary tract infections
33. Esophageal, pouch or small bowel motility disorders

J. Nutritional complications to include:
1. Protein malnutrition
2. Vitamin deficiencies, including B12, B1, B6, Folate and fat soluble vitamins A, D, E and K
3. Mineral deficiencies, including calcium, magnesium, iron, zinc, copper and other trace minerals
4. Uncorrected deficiencies can lead to anemia, neuro-psychiatric disorders and nerve damage, that is neuropathy

K. Psychiatric complications include:
1. Depression
2. Bulimia
3. Anorexia
4. Dysfunctional social problem

L. Other complications to include:
1. Adverse outcomes may be precipitated by smoking
2. Constipation
3. Diarrhea
4. Bloating
5. Cramping
6. Development of gallstones
7. Intolerance of refined or simple sugars, dumping with nausea, sweating and weakness
8. Low blood sugar, especially with improper eating habits
9. Vomiting, inability to eat certain foods, especially with improper eating habits or poor dentition
10. Loose skin
11. Intertriginous dermatitis due to loose skin
12. Malodorous gas, especially with improper food habits
13. Hair loss (alopecia)
14. Anemia
15. Bone disease
16. Stretching of the pouch or the stoma
17. Low blood pressure
18. Cold intolerance
19. Fatty liver disease or non-alcoholic liver disease (NALF)
20. Progression of preexisting NALF or cirrhosis
21. Vitamin deficiencies some of which may already exist before surgery
22. Diminished alcohol tolerance

M. Pregnancy complications should be explained as follows:
1. Pregnancy should be deferred for 12-18 months after surgery or until after the weight loss is stabilized
2. Vitamin supplementation during the pregnancy should be continued

3. Extra folic acid should be taken if the pregnancy is planned
4. Obese mothers have children with a higher incidence of neural tube defects and congenital heart defects
5. Pregnancy should be discussed with the obstetrician
6. Special nutritional needs may be indicated or necessary
7. Secure forms of birth control should be used in the first year after surgery
8. Fertility may improve with weight loss

Some or all of the complications listed in this rule may exist in a patient whether the surgical procedure of gastric bypass is performed on the patient or not. This rule is not meant to imply that in all cases gastric bypass surgery is the only cause of these complications.

The failure of a physician to inform a patient, prior to gastric bypass surgery, of the above complications and obtaining the patient's signature on a form acknowledging the same will be a violation of the Arkansas Medical Practices Act and may result in disciplinary proceedings before the Board pursuant to law.

History: Adopted December 4, 2003; Amended February 5, 2004; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 28: ACADEMIC LICENSE TO PRACTICE MEDICINE IN THE STATE OF ARKANSAS

Pursuant to Act 497 of the 85th General Assembly of the Regular Session of 2005 and amended by Act 701 of 2019, the Arkansas State Medical Board is empowered to issue an academic license to applicants who meet the following requirements:

1. Be 21 years of age.
2. Be of good moral character.
3. Submit a completed application to the Board.
4. Submit a $400.00 application fee and a $100.00 licensure-processing fee.
5. Be serving as a faculty member in the State of Arkansas under the supervision of a faculty member licensed by the Board at an academic medical program accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association operated in the State of Arkansas and established by and under the control of a medical school located in the State of Arkansas and accredited by an accrediting agency recognized by the United States Department of Education or approved by the Arkansas Higher Education Coordinating Board to seek accreditation by an accrediting agency recognized by the United States Department of Education.
6. The academic license to practice medicine in the State of Arkansas shall authorize the practice of medicine only within the clinical and academic programs in the State of Arkansas that are established and administered by a medical school located in the State of Arkansas and accredited by an accrediting agency recognized by the United States Department of Education or approved by the Arkansas Higher Education Coordinating Board to seek accreditation by an accrediting agency recognized by the United States Department of Education.
7. Appear personally before the Arkansas State Medical Board together with the sponsoring supervising faculty member physician.
8. Present to the Board such information as to what department he or she will be practicing medicine and who will be his/her supervisor.
9. Said academic license will authorize the licensee to practice medicine only within the clinical and academic programs established and administered by the accredited medical school.
10. The Arkansas State Medical Board shall issue each academic license for a period of one (1) year.
11. At the end of one (1) year, the-academic license issued to a licensee shall lapse and if the physician desires to continue the practice of medicine under the academic license shall:
    1. Submit a completed application to the Arkansas State Medical Board providing such information as the Board requests.
    2. Pay a renewal fee of $220.00.
    3. If requested, appear in person before the Board, together with the supervising faculty physician of the clinical or educational academic program wherein the applicant will be practicing medicine in the State of Arkansas.
12. At the end of the second year of practice with an academic license, the physician is eligible for an active, unrestricted license to practice medicine in the state.

13. A physician who obtains an academic license to practice medicine in the State of Arkansas shall comply with the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and all rules of the Arkansas State Medical Board.

History: Adopted August 4, 2005; Amended June 5, 2014; Amended August 3, 2017, Effective October 4, 2017; Effective February 9, 2024.

RULE No. 29: GOVERNING RADIOLOGIST ASSISTANTS/RADIOLOGY PRACTITIONER ASSISTANTS

I. DEFINITIONS

A. Licensed Practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic, or optometry in the State of Arkansas;

B. Radiation Practitioner means a licensed practitioner who has completed a residency in radiology, nuclear medicine, or radiation oncology, AND is certified by the American Board of Radiology, the American Osteopathic Board of Radiology, or the American Board of Nuclear Medicine or its equivalent;

C. Radiologist Assistant (RA) or Radiology Practitioner Assistant (RPA) a person other than a licensed practitioner, who has specific qualifications, education, certification and responsibilities as recognized by the Arkansas State Medical Board and who has been issued a license to perform certain functions under the supervision of Licensed Radiation Practitioner;

D. Supervising Radiation Practitioner means a radiation practitioner using the services of RA or RPA and is responsible for the professional activities and services of the RA or RPA under these Rules;

E. Alternate Supervising Radiologist means a radiation practitioner other than the supervising radiologist who is responsible for the supervision of RA or RPA for specific procedures in accordance with all Rules applicable to the supervising radiation practitioner;

F. Personal Supervision means the supervising and/or alternate supervising radiation practitioner must be in attendance in the room with the RA or RPA during the performance of the procedure or task;

G. Direct Supervision means the supervising and/or alternate supervising radiation practitioner and/or radiologist must be present in the facility and immediately available to furnish assistance and direction to the RA or RPA during the performance of the procedure or task. The radiation practitioner is not required to be present in the room during the performance of the procedure or task;

H. General Supervision means the procedure is furnished under the supervising and/or alternate supervising radiation practitioner's overall direction and control, but the practitioner is not required to be in the same room or facility with the RA or RPA during the performance of the procedure or task;

II. REQUIREMENTS

The Radiologist Assistant (RA) and the Radiology Practitioner Assistant (RPA) must obtain a permit from the Arkansas State Medical Board to practice in the State of Arkansas, in order to obtain said permit the RA or RPA must comply with the following:

A. Complete and submit an application and provide such information as the Board requires.

B. Provide proof of successfully passing the Registered Radiologist Assistant examination by the American Registry of Radiologic Technologists, or provide proof of licensure in Arkansas by 2007 as a RA or RPA through the Division of Ionizing Radiation at the Arkansas State Department of Health.

C. Be at least 18 years of age.

D. Provide the names and signatures of the supervising and alternate supervising radiation practitioners licensed to practice in the State of Arkansas who agree to supervision of the RA or RPA under the terms of these Rules.

E. Provide a practice-specific document delineating the specific procedures and tasks to be performed by the RA or RPA in each facility utilized, including the level of supervision to be provided by the supervising licensed radiation practitioners.

F. Pay a licensure fee of $75.00 to the Board with the application for the initial permit. The supervising and alternate supervising radiation practitioners must sign the application form that they have read the Rules and will abide by same, including disciplinary actions pertaining to the RA or RPA and themselves.

G. Pay a renewal fee of $60.00 with the annual renewal form for a permit and a copy of the practice privileges for each facility where the procedures are performed. The supervising and alternate supervising radiation practitioners must sign the renewal form that they have read the Rules and will abide by same, including disciplinary actions pertaining to the RA or RPA and themselves.
H. A request must be submitted for Board approval of any changes in supervising or alternate supervising radiation practitioners, and for any changes to the practice-specific document delineating the specific procedures and tasks to be performed by the RA or RPA in each facility utilized, including the level of supervision to be provided by the supervising licensed radiation practitioner(s).

III. ROLES AND RESPONSIBILITIES

The RA or RPA may perform the tasks and functions as approved by the Board AND for which practice privileges have been secured at each facility where the procedure is performed.

Prescriptive authority for medications and images interpretation are expressly prohibited. Initial observation of the images by the RA and RPA may be communicated only to the supervising radiation practitioner. The RA and RPA may communicate the radiologist's interpretation to other care providers.

IV. THE PRACTICE-SPECIFIC DOCUMENT

The practice-specific document is to be completed and signed by the RA or RPA and the supervising licensed radiation practitioner supervisor. The practice-specific document must be accepted and approved by the Arkansas State Medical Board prior to the licensure of the RA or RPA. Any change in the practice-specific document shall include the following:

A. Procedures or tasks to be performed by the RA or RPA with the level of supervision to be provided by the licensed practitioner(s). All invasive procedures listed require a minimum level of direct supervision.
B. Name and address of facility where the procedure(s) will be performed.
C. The name of the alternate supervising licensed radiation practitioner(s).

V. SUPERVISION

The radiation practitioners assume full responsibility for the actions of the RA and RPA. If there is any uncertainty regarding supervision of the RA and RPA, the designated supervising radiation practitioner has ultimate responsibility.

Supervising and alternate supervising radiation practitioners must have the privileges to perform the procedures for which he/she is supervising for the RA and RPA. If it is an invasive procedure, the radiation practitioners must satisfy, at a minimum, the same educational and experience requirements as the RA or RPA.

All invasive procedures require a minimum level of direct supervision, and conscious sedation requires personal supervision by the radiation practitioner.

VI. DISCIPLINARY ACTION

An RA and RPA must comply with the Medical Practices Act and the Rules of the Board. Should the Board find that there is probable cause that an RA or RPA has not complied with the Medical Practices Act and the Rules and Regulations of the Board, the Board will bring charges alleging the wrongful conduct and said disciplinary proceeding will comply with the Administrative Procedure Act of the State of Arkansas. At the conclusion of the disciplinary hearing, if the Board finds that the RA or RPA has violated the Medical Practices Act or the Rules of the Board, the Board may impose one or more of the following sanctions:

A. Revoke the permit to practice in Arkansas as a RA or RPA.
B. Suspend the permit for a period of time as determined by the Board.
C. Issue a reprimand.
D. Supervising radiation practitioners may be subject to disciplinary action by the Board if the RA or RPA violates the Medical Practices Act or the Rules.

VII. CONTINUING MEDICAL EDUCATION

A. An RA or RPA with an active permit to practice in the State of Arkansas shall complete 6 credit hours per year of continuing medical education acceptable to the American Registry of Radiologic Technologists and/or the American Medical Association.
B. If a person holding an active permit as an RA or RPA in this State fails to meet the foregoing requirement because of illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstances, the Board upon appropriate written application may grant an extension of time to complete the same on an individual basis.
C. Each year with the application for renewal of an active permit as an RA or RPA in this state, the Board will include a form which requires the person holding the permit to certify by signature under penalty of perjury, and discipline by the Board, that he or she has met the stipulating continuing medical education requirements. In addition, the Board may randomly require the RA or RPA submitting such certification to demonstrate, prior to renewal of the permit, satisfaction of continuing medical education requirements stated in his or her certification.
D. Continuing medical education records must be kept by the permit holder in an orderly manner. All records relative to continuing medical education must be maintained by the licensee for at least 3 years from the end of the reporting period. The records or copies of the forms must be provided or made available to the Arkansas State Medical Board upon request.
E. Failure to complete continuing education hours as required, or failure to be able to produce records reflecting that one has completed the required minimal medical education hours shall be a violation and may result in the permit holder having his permit suspended and/or revoked.

History: Adopted February 7, 2008; Amended June 5, 2014; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 30: COLLABORATIVE PRACTICE

Approved by the Board August 8, 2008; not implemented upon the request of the Legislature

ACA § 17-87-102(2) states that a "collaborative practice agreement" means a written plan that identifies a physician who agrees to collaborate with an advanced practice nurse in the joint management of the health care of the advanced practice nurse's patients, and outlines procedures for consultation with or referral to the collaborating physician or other health care professionals as indicated by a patient's health care needs;

ACA § 17-87-310(a)(2) provides that: "An advanced practice nurse may obtain a certificate of prescriptive authority from the Arkansas State Board of Nursing if the advanced practice nurse has a collaborative practice agreement with a physician who is licensed under the Arkansas Medical Practices Act, and who has a practice comparable in scope, specialty, or expertise to that of the advanced practice nurse on file with the Arkansas State Board of Nursing."

ACA § 17-87-310(c) states: "A collaborative practice agreement shall include, but not be limited to, provisions addressing:

(1) The availability of the collaborating physician for consultation or referral, or both;
(2) Methods of management of the collaborative practice, which shall include protocols for prescriptive authority;
(3) Coverage of the health care needs of a patient in the emergency absence of the advanced practice nurse or physician; and
(4) Quality assurance."

ACA § 17-87-310(d) provides that: "If a collaborative practice results in complaints of violations of the Arkansas Medical Practices Act, the Arkansas State Medical Board may review the role of the physician in the collaborative practice to determine if the physician is unable to manage his or her responsibilities under the agreement without an adverse effect on the quality of care of the patient."

To better delineate and explain the requirements on a physician who desires to enter into a collaborative practice agreement with an advanced practice nurse, the Arkansas State Medical Board states affirmatively that the licensed physician must comply with Arkansas law as stated hereinabove, as well as the following:

F. The collaborating physician must be licensed to practice in the state of Arkansas, and be in the active clinical practice of medicine located within the state of Arkansas, or in a state which borders Arkansas and in a county in such state contiguous to the state of Arkansas.

G. The collaborating physician must be easily in contact with the APN by radio, telephone, electronic or other telecommunication device.
H. The collaborating physician must be engaged in the active practice of medicine and have a practice comparable in scope, specialty, or expertise to that of the Advanced Practice Nurse with whom he or she has entered into a collaborative practice agreement.
I. The collaborating physician must provide notification of the following information to the ASMB, in a manner and form established by the Board:
    A. The names and professional titles of anyone with whom they are collaborating;
    B. When a material change has occurred in the collaborative agreement or practice;
    C. Termination of any collaborative practice agreement.
    D. List the scope, specialty and expertise of practice in which the physician is engaged.
    E. List the scope, specialty and expertise of practice in which the Advanced Practice Nurse is engaged.
    F. Provide a copy of the Collaborative Agreement exclusive of specific protocols.
    G. Provide a copy of the quality assurance plan that is utilized by the physician and the advanced practice nurse that have entered into a collaborative agreement.

    The physician should inform the Board when there are changes to the information that is to be provided to the Board by the physician as stated in this paragraph.
J. A copy of the collaborative agreement must be maintained by the collaborating physician and made available to the Arkansas State Medical Board upon request and must include, at a minimum, provisions addressing:
    H. The availability of the collaborating physician for consultation or referral or both;
    I. Methods of management of the collaborative practice, which shall include protocols for prescriptive authority;
    J. Coverage of the health care needs of the patient in the emergency absence of the APN or the physician;
    K. Quality Assurance Plan
K. The collaborating physician shall be responsible for ensuring that each patient receives written documentation as to who the collaborating physician is and how he or she may be reached and/or contacted.

The failure of a physician to comply with this rule will be considered a violation of the Medical Practices Act and § 17-95-409(a)(2)(P), and subject the physician to the possibility of a disciplinary hearing and the imposition of sanctions against his or her license pursuant to Arkansas law and the Administrative Procedure Act.

Approved: August 8, 2008
The implementation date of this regulation has been delayed upon the request of the Legislature.

RULE No. 31: PHYSICIAN DELEGATION RULE

Act 472 of the 87th General Assembly of the State of Arkansas, as of the year 2009, authorized Physicians to delegate the performance of certain medical practices or tasks to qualified and properly trained employees (commonly referred to as medical assistants), who are not licensed or otherwise specifically authorized by Arkansas law to perform the practice or task. This Rule will set forth standards to be met and the procedures to be followed by the Physician when delegating to employees.

Definitions for Purposes of this Rule:
1. "Physician" means an individual licensed by the Arkansas State Medical Board to practice medicine in the State of Arkansas.
2. "Medical Practice" means those tasks or functions that are delegated to a qualified and properly trained employee, including the administration of drugs, pursuant to Act 472 of 2009 and this Rule.
3. "Delegate" means to authorize a qualified and properly trained employee to perform a medical practice that does not conflict with a provision of the Arkansas Code that specifically authorizes an individual to perform a particular practice.
4. "Supervision" means the act by a Physician in directing and overseeing an employee who performs a delegated medical practice.
5. "Medical Assistant" means an employee of a Physician who has been delegated medical practices or tasks, and who has not been licensed by or specifically authorized to perform the practice or task pursuant to other provisions of Arkansas law.

Section 1. General Provisions

A. The delegating Physician remains responsible for the acts of the employee performing the delegated medical practice;
B. The employee performing the delegated medical practice shall not be represented to the public as a licensed physician, licensed nurse, licensed physician's assistant, or other licensed healthcare provider; and
C. Medical practices delegated pursuant to this statute and rule shall be performed under the physician's supervision.

Section 2. Procedures for Delegating a Medical Practice

A. Prior to delegating a medical practice or task, the physician shall determine the following:
1) That the medical practice or task is within that Physician's authority to perform;
2) That the medical practice or task is indicated for the patient;
3) The appropriate level of supervision for the Physician to exercise while the medical practice or task is being performed;
4) That the person to whom the medical practice or task is being delegated is qualified and properly trained to perform the medical practice or task; and
5) That the medical practice is one that can be appropriately delegated when considering the following factors:
i. That the medical practice can be performed without requiring the exercise of judgment based on medical knowledge;
ii. That the results of the medical practice are reasonably predictable;
iii. That the medical practice can be safely performed according to exact, unchanging directions;
iv. That the medical practice can be performed without the need for complex observations or critical decisions; and
v. That the medical practice can be performed without repeated medical assessments.

Section 3. Additional Requirements for Delegating the Administration of Drugs

A. A Physician may only delegate the administration of drugs that do not require substantial, specialized judgment and skill based on knowledge and application of the principles of biological, physical, and social sciences.
B. Administration of drugs, delegated pursuant to this Rule, shall only be permissible within the physical boundaries of the delegating physician's offices;
C. The Physician shall evaluate the acuity of the patient and make a determination that delegation is appropriate;
D. The Physician shall determine the competency of the person to whom the administration of drugs is being delegated through training and experience, including the physician's personal observation.

Section 4. Prohibitions

A. A physician shall not transfer his or her responsibility for supervising an unlicensed person in the performance of a delegated medical practice, except to another physician who has knowingly accepted that responsibility;
B. A physician shall not authorize or permit an unlicensed person to whom a medical practice is delegated to delegate the performance of that practice to another person;
C. A physician shall not delegate to an unlicensed person the administration of anesthesia;
D. A physician shall not delegate a medical practice that is not within the authority of that physician or is beyond the physician's training, expertise, or normal course of practice; and
E. A physician shall not delegate a medical practice to an unlicensed person if the practice is beyond that person's competence.

History: Adopted February 4, 2010; Effective Date June 1, 2010; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 32: ETHICAL VIOLATIONS FOR PHYSICIANS

Pursuant to Act 1178 of the 87th General Assembly, the Arkansas State Medical Board determines that the following conduct is an ethical violation:

A. A licensed physician engaging in sexual contact, sexual relations or a romantic relationship with a patient concurrent with the physician-patient relationship; or a licensed physician engaging in the same conduct with a former patient, if the physician uses or exploits trust, knowledge, emotions or influence derived from the previous professional relationship. A patient's consent to, initiation of, or participation in the sexual relationship or conduct with the physician does not change the nature of the conduct nor the prohibition.
B. A licensed physician reveals or discloses confidential communications or information concerning a patient without the consent of the patient unless said disclosure is authorized or required by law or by the need to protect the individual patient or the public interest.
C. A licensed physician fails to disclose to a patient that the physician has an ownership interest in a facility or service to which the physician refers the patient that is outside of the physician's own practice.

D. A licensed physician utilizing words or acts which sexually harass co-workers or employees or patients within the clinic or hospital setting.
E. A licensed physician grossly over-utilizing or ordering or performing tests or procedures on a patient when that may result in harm to the patient.

History: Adopted February 4, 2010; Effective: April 1, 2010; Amended March 22, 2022; Effective July 11, 2022

RULE No. 33: NOTIFICATION OF CHANGE OF PRACTICE

1. DEFINITIONS:
   a. "Entity" means any person, organization, or business entity of any type that engages a healthcare provider as an employee, independent contractor, member, or in any other capacity for the practice of medicine as defined in §17-95-202. "Entity" does not include insurance companies, health maintenance organizations, or hospital and medical service corporations;
   b. "Existing Patient" means a person who is seen for a medical diagnosis or treatment, or both, by a healthcare provider within the previous twelve (12) months as evidenced by an entry in the medical record of the patient. The twelve (12) month period described herein shall be calculated by counting back twelve (12) months from the later of the following dates:
      i. The date that the healthcare provider's relationship with the entity terminates; or
      ii. The date that the healthcare provider gave the entity notice of a new practice location.
   c. "Healthcare Provider" means a person who is licensed by the Arkansas State Medical Board and has ultimate responsibility and legal liability for the care of the patient.
2. PROHIBITED CONDUCT:
   a. If the healthcare provider has made new practice location information or new contact information available to the entity, an entity or person on behalf of an entity shall not:
      i. Mislead any patient about the new practice location of a healthcare provider or new contact information of a healthcare provider; or
      ii. Fail to provide a patient with the new practice location of a healthcare provider or new contact information of a healthcare provider when requested.
   b. When requested by a healthcare provider who is relocating his or her practice, an entity with a relationship with healthcare provider shall within twenty-one (21) calendar days:
      i. Provide the healthcare provider with a list of the healthcare provider's existing patient names and addresses;
      ii. Send a notice with the new practice location information to all of the health care provider's existing patients after providing the healthcare provider a copy of the proposed notice for review and comment; or
      iii. Post the new practice location information of the healthcare provider on the website of the entity after providing the healthcare provider a copy of the proposed posting for review and comment. The posting shall remain on the website of the entity for twelve (12) months after the healthcare provider's last day of employment with the entity posting the information.
   c. Within (2) business days of the request described in this section, the entity shall provide the healthcare provider with a list or schedule of upcoming patient appointments with the healthcare provider and the contact information of the patients.
3. HEALTHCARE PROVIDER'S DUTY TO INFORM BOARD.

In order to avoid defrauding, misrepresenting or deceiving the public or the Board, a healthcare provider will inform the Arkansas State Medical Board within 30 days of his or her terminating, retiring from, or relocating his or her practice setting. The healthcare provider will inform the Board of his or her new location and address and of his or her practice setting if applicable. The healthcare provider will further inform the Board of where the patient records are stored, who is the custodian of those records and how the patient or other individuals may obtain the records.

History: Adopted: June 3, 2010, Effective: July 1, 2010; Amended August 3, 2017, Effective October 4, 2017; Amended March 22, 2022; Effective July 11, 2022

RULE No. 34: REQUIREMENTS OF LICENSED PHYSICIANS IN COMPLETING DEATH CERTIFICATES

ACA §20-18-601 requires physicians in the State of Arkansas to comply with the requirements when completing death certificates. ACA §17-95-409 (a)(2)(P) provides that the Arkansas State Medical Board may revoke or suspend a license of physicians, or impose other sanctions as provided by law, if a licensed physician violates a rule of the Board.

A. A licensed Physician who has been in charge of a patient's care for the illness or condition that resulted in the death of the patient shall complete, sign and return to the funeral director the medical certification on the death certificate within three (3) business days after receipt of the death certificate, except when an inquiry is required by law pursuant to ACA §12-12-315 as set forth herein:
   1) The county coroner, prosecuting attorney, and either the county sheriff or the chief of police of the municipality in which the death of a human being occurs shall be promptly notified by any physician, law enforcement officer, undertaker or embalmer, jailer, or coroner or by any other person present with knowledge of the death if:
      A. The death appears to be caused by violence or appears to be the result of a homicide or a suicide or to be accidental;
      B. The death appears to be the result of the presence of drugs or poisons in the body;
      C. The death appears to be the result of a motor vehicle accident, or the body was found in or near a roadway or railroad;
      D. The death appears to be the result of a motor vehicle accident and there is no obvious trauma to the body;
      E. The death occurs while the person is in a state mental institution or hospital and there is no previous medical history to explain the death, or while the person is in police custody or jail other than a jail operated by the Department of Correction;
      F. The death appears to be the result of a fire or an explosion;
      G. The death of a minor child appears to indicate child abuse prior to death;
      H. Human skeletal remains are recovered or an unidentified deceased person is discovered;
      I. Postmortem decomposition exists to the extent that an external examination of the corpse cannot rule out injury, or in which the circumstances of death cannot rule out the commission of a crime;
      J. The death appears to be the result of drowning;
      K. The death is of an infant or a minor child under eighteen (18) years of age;
      L. The manner of death appears to be other than natural;
      M. The death is sudden and unexplained;
      N. The death occurs at a work site;
      O. The death is due to a criminal abortion;
      P. The death is of a person where a physician was not in attendance within thirty-six (36) hours preceding death, or, in prediagnosed terminal or bedfast cases, within thirty (30) days;
      Q. A person is admitted to a hospital emergency room unconscious and is unresponsive, with cardiopulmonary resuscitative measures being performed, and dies within twenty-four (24) hours of admission without regaining consciousness or responsiveness, unless a physician was in attendance within thirty-six (36) hours preceding presentation to the hospital, or, in cases in which the decedent had a prediagnosed terminal or bedfast condition, unless a physician was in attendance within thirty (30) days preceding presentation to the hospital;
      R. The death occurs in the home; or
      S. (i) The death poses a potential threat to public health or safety.
      (ii) Upon receiving notice of a death that poses a potential threat to public health or safety, the county coroner shall immediately notify the Department of Health.
   2) Nothing in this section shall be construed to require an investigation, autopsy, or inquest in any case in which death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means in accordance with the tenets and practices of a well-recognized church or religious denomination.

With regard to any death in a correctional facility, the county coroner and the State Medical Examiner shall be notified, and when previous medical history does not exist to explain the death, the Arkansas State Police shall be notified.
Or pursuant to ACA §12-12-318; or pursuant to ACA §14-15-301 *et seq* as set forth herein:
When a death is reported to a coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including, but not limited to, medical information and any other information which may be helpful in determining the cause and manner of death.

B. In the absence of the physician or with his or her approval, the certificate may be completed and signed by his or her associate physician, by the chief medical officer of the institution in which death occurred, by the pathologist who performed an autopsy upon the decedent, or by a registered nurse as provided in this subsection c, if the individual has access to the medical history of the case and has reviewed the coroner's report if required and if the death is due to natural causes. The individual completing the cause-of-death section of the certificate shall attest to its accuracy either by a signature or by approved electronic process.

C. (i) If a physician refuses or otherwise fails to complete, sign, and return the medical certification to the funeral director within three (3) business days as required by subdivision (A) of this section. The funeral director may notify the Board of the failure to complete, sign or return the medical certification within three (3) business days as required by subdivision (A) of this section.
(ii) The Board shall assess against a physician described in subdivision (c) of this section a fine not to exceed two hundred fifty dollars ($250) unless the physician shows good cause for the refusal or failure.

D. Except as provided herein below, a medical certification shall be completed using the electronic process or system designated by the division except:
(i) Upon request, the Medical Board may grant a waiver from the requirement of subdivision (c)(1)(A)(ii) of this section that a medical certification be completed using an electronic process or system if a person requesting the waiver:
(A) Regularly signs fewer than ten (10) medical certifications per year; or
(B) Shows other good cause for a waiver as determined by the Medical Board in its discretion
(ii) A physician who is granted a waiver under subdivision (D) of this section.
(A) Shall not be fined under subsection (c)(ii) of this section for failure to submit medical certification using an electronic process or system: and
(B) Is liable for failure to submit a medical certification in a timely manner under subdivision (C) of this section.

History**:** Adopted August 5, 2010, Implementation date October 1, 2010; Amended October 3, 2019, Implementation date November 28, 2019; Act 674 of 2021; Amended March 22 2022, Effective July 11, 2022.

RULE No. 35: OFFICE-BASED SURGERY

A physician shall not perform any office-based surgery, as defined by Act 587 of 2013, unless the office meets the requirements of this regulation. Except in an emergency, a physician shall not perform any office-based surgery on and after July 1, 2014, unless they are in compliance with the provisions of this regulation.

1) Definition Section –
   a) Office Based Surgery means that:
      i. Is performed by a physician in a medical office that is not a hospital, outpatient clinic, or other facility licensed by the State Board of Health;
      ii. Requires the use of general or intravenous anesthetics; and
      iii. In the opinion of the physician, does not require hospitalization.
   b) General or intravenous anesthetics:
      i. Deep Sedation/Analgesia – A drug induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. (Source: 2009 American Society of Anesthesiologist Continuum of Depth of Sedation).
      ii. General Anesthesia is a drug induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patient often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. (Source: same as above)
2) Personnel -
   a) All health care personnel shall be qualified by training, experience, and licensure as required by law.
   b) At least one person shall have training in advanced resuscitative techniques and shall be in the patient's immediate presence at all times until the patient is discharged from anesthesia care.
3) Office-based surgery -
   a) Each office-based surgery shall be within the scope of practice of the physician.

b) Each office-based surgery shall be of a duration and complexity that can be undertaken safely and that can reasonably be expected to be completed, with the patient discharged, during normal operational hours.
c) Before the office-based surgery, the physician shall evaluate and record the condition of the patient, any specific morbidities that complicate operative and anesthesia management, the intrinsic risks involved, and the invasiveness of the planned office-based surgery or any combination of these.
d) The person administering anesthesia shall be physically present during the intraoperative period and shall be available until the patient has been discharged from anesthesia care. They must be licensed, qualified and working within his/her scope of practice as defined by state law.
e) Each patient shall be discharged only after meeting clinically appropriate criteria. These criteria shall include, at a minimum, the patient's vital signs, the patient's responsiveness and orientation, the patient's ability to move voluntarily, and the ability to reasonably control the patient's pain, nausea, or vomiting, or any combination of these.

4) Equipment -
a) All operating equipment and materials shall be sterile, to the extent necessary to meet the applicable standard of care.
b) Each office at which office-based surgery is performed shall have a defibrillator, a positive-pressure ventilation device, a reliable source of oxygen, a suction device, resuscitation equipment, appropriate emergency drugs, appropriate anesthesia devices and equipment for proper monitoring, and emergency airway equipment including appropriately sized oral airways, endotracheal tubes, laryngoscopes, and masks.
c) Each office shall have sufficient space to accommodate all necessary equipment and personnel and to allow for expeditious access to the patient, anesthesia machine, and all monitoring equipment.
d) All equipment shall be maintained and functional to ensure patient safety.
e) A backup energy source shall be in place to ensure patient protection if an emergency occurs.

5) Administration of anesthesia - In an emergency, appropriate life-support measures shall take precedence over the requirements of this subsection. If the execution of life-support measures requires the temporary suspension of monitoring otherwise required by this subsection, monitoring shall resume as soon as possible and practical. The physician shall identify the emergency in the patient's medical record and state the time when monitoring resumed. All of the following requirements shall apply:
a) A preoperative anesthetic risk evaluation shall be performed and documented in the patient's record in each case. In an emergency during which an evaluation cannot be documented preoperatively without endangering the safety of the patient, the anesthetic risk evaluation shall be documented as soon as feasible.
b) Each patient receiving intravenous anesthesia shall have the blood pressure and heart rate measured and recorded at least every five minutes.
c) Continuous electrocardiography monitoring shall be used for each patient receiving intravenous anesthesia.
d) During any anesthesia other than local anesthesia and minimal sedation, patient oxygenation shall be continuously monitored with a pulse oximeter. Whenever an endotracheal tube or laryngeal mask airway is inserted, the correct functioning and positioning in the trachea shall be monitored throughout the duration of placement.
e) Additional monitoring for ventilation shall include palpation or observation of the reservoir breathing bag and auscultation of breath sounds.
f) Additional monitoring of blood circulation shall include at least one of the following:
i. Palpation of the pulse;
ii. Auscultation of heart sounds;
iii. Monitoring of a tracing of intra-arterial pressure;
iv. Pulse plethysmography; or
v. Ultrasound peripheral pulse monitoring.
g) When ventilation is controlled by an automatic mechanical ventilator, the functioning of the ventilator shall be monitored continuously with a device having an audible alarm to warn of disconnection of any component of the breathing system.
h) During any anesthesia using an anesthesia machine, the concentration of oxygen in the patient's breathing system shall be measured by an oxygen analyzer with an audible alarm to warn of low oxygen concentration.

6) Administrative policies and procedures -
a) Informed consent for the nature and objectives of the anesthesia planned and surgery to be performed should be in writing and obtained from patients before the procedure is performed. Informed consent should only be obtained after a discussion of the risks, benefits and alternatives and should be documented in the medical record.

b) Each office shall have written protocols in place for the timely and safe transfer of the patients to a prespecified medical care facility within a reasonable proximity if extended or emergency services are needed. The protocols shall include one of the following:
   i. A plan for patient transfer to the specified medical care facility;
   ii. A transfer agreement with the specified medical care facility; or
   iii. A requirement that all physicians performing any office-based surgery have admitting privileges at the specified medical care facility.

c) Each physician who performs any office-based surgery that results in any of the following quality indicators shall notify the board in writing within 15 calendar days following discovery of the event:
   i. The death of a patient during any office-based surgery, or within 72 hours thereafter;
   ii. The transport of a patient to a hospital emergency department;
   iii. The discovery of a foreign object erroneously remaining in a patient from an office-based surgery performed at that office; or
   iv. The performance of the wrong surgical procedure, surgery on the wrong site, or surgery on the wrong patient.

History: Adopted February 6, 2014; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 36: RULES GOVERNING PROCEDURES FOR ABORTIONS

A. A person authorized to perform abortions under Arkansas law shall not perform an abortion on a pregnant woman before the person tests the pregnant woman to determine whether the fetus that the pregnant woman is carrying possesses a detectible heartbeat.

B. A person authorized to perform abortions under Arkansas law shall perform an abdominal ultrasound test necessary to detect a heartbeat of an unborn human individual according to standard medical practice, including the use of medical devices as determined by standard medical practice.

C. Tests performed pursuant to Ark. Code Ann. § 20-16-1303(b)(1) shall be:
   a. Based on standard medical practice for testing for the fetal heartbeat of an unborn human individual which testing includes an abdominal ultrasound test necessary to detect a heartbeat of an unborn human individual according to standard medical practice, including the use of medical devices as determined by standard medical practice;
   b. A test for fetal heartbeat is not required in the case of a medical emergency; and

D. The physician shall obtain, based on available medical evidence, including testing and physical examination, the statistical probability of bringing an unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat.

E. If a heartbeat is detected during the test required pursuant to this Rule, the person performing the test shall inform the pregnant woman in writing:
   a. That the unborn human individual that the pregnant woman is carrying possesses a heartbeat;
   b. Of the statistical probability of bringing the unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat; and
   c. If a heartbeat has been detected, the pregnant woman shall sign a form acknowledging that she has received the information required under Ark. Code Ann. § 20-16-1303(d).

F. DEFINITIONS: As used in this section:
   1) "Abortion" means the use or prescription of any instrument, medicine, drug or any other substance or device or means with the intent to terminate the clinically diagnosable pregnancy of a woman known to be pregnant, with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child, other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died in utero as the result of natural causes, accidental trauma, or a criminal assault on the pregnant woman or her unborn child, and that causes the premature termination of the pregnancy; An act under this section is not an abortion if the act is performed with the intent to:
      i. Save the life or preserve the health of the unborn child or the pregnant woman;
      ii. Remove a dead unborn child caused by spontaneous abortion;
      iii. Remove an ectopic pregnancy; or
      iv. Treat a maternal disease or illness for which the prescribed drug is indicated;
   2) "Abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child.

i. "Abortion-inducing drugs" includes off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion, such as misoprostol, Cytotec, and methotrexate.
ii. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indicts such as chemotherapeutic agents or diagnostic drugs.
iii. Use of drugs to induce abortion is also known as a medical, drug-induced, or chemical abortion.

3) "Attempt to perform or induce an abortion" means an act or an omission of a statutorily required act that, under the circumstances as the physician believes them to be, constitutes a substantial step toward the performance or induction of an abortion in violation of this section;
4) "Mifeprex regimen" means the abortion-inducing drug regimen that involves administration of mifepristone or the brand name "Mifeprex" and misoprostol which is the only abortion-inducing drug regimen approved by the United States Food and Drug Administration and is also known as the RU-486 regimen or simply RU-486.
5) "Mifepristone" means the specific abortion-inducing drug regimen known as RU-486 and the first drug used in the Mifeprex regimen;
6) "Mifepristol" means the second drug used in the Mifeprex regimen;
7) "Physician" means any person licensed to practice medicine in the State of Arkansas under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., including medical doctors and doctors of osteopathy;
8) "Adverse event" means an undesirable experience associated with the use of a medical product in a patient, including without limitation an event that causes:
i. Death;
ii. Threat to life;
iii. Hospitalization;
iv. Disability or permanent damage;
v. Congenital anomaly or birth defect, or both;
vi. Required intervention to prevent permanent impairment or damage;
vii. Other serious important medical events, including without limitation:
1. Allergic bronchospasm requiring treatments in an emergency room;
2. Serious blood dyscrasias;
3. Seizures or convulsions that do not result in hospitalization; and
4. The development of drug dependence or drug abuse;
9) "Final printed labeling" means the United States Food and Drug Administration approved informational document for an abortion-inducing drug which outlines the protocol authorized by the United States Food and Drug Administration and agreed upon by the drug company applying for United States Food and Drug Administration authorization of that drug.
10) "Conception" means the fusion of a human spermatozoon with a human ovum;
11) "Emancipated minor" means a person under eighteen (18) years of age who is or has been married or who has been legally emancipated;
12) "Facility" means a public or private hospital, clinic, center, medical school, medical training institution, healthcare facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location where medical care is provided to a person.
13) "First trimester" means the first twelve (12) weeks of gestation;
14) "Gestational age" means the time that has elapsed since the first day of the woman's last menstrual period or as stated in Act 171 of 2013, which prohibits abortions after 20 weeks, which also uses the term "post-fertilization" age;
15) "Hospital" means any institution licensed as a hospital pursuant to the laws of this state;
16) "Medical emergency" means that condition which, on the basis of the physician's good-faith clinical judgment, complicates the medical condition of a pregnant woman and necessitates the immediate termination of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function;
17) "Pregnant" or "pregnancy" means that female reproductive condition of having an unborn child in the woman's uterus;
18) "Qualified person" means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, physician assistant, or physician;
19) "Unborn child" means the offspring of human beings from conception until birth.

20) "Viability" means the state of fetal development when, in the judgment of the physician based on the particular facts of the case before him or here and in light of the most advanced medical technology and information available to him or her, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his or her mother, with or without artificial support.

21) "Chemical abortion" means the use, provision, prescription, or dispensation of a medicine, drug, or any other substance used, provided, prescribed, or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child; includes the off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion, such as misoprostol and methotrexate; and does not apply to drugs that may be known to cause an abortion but which are prescribed for other medical indication.

G. 1. When mifepristone or another drug or chemical regimen is used to induce an abortion, the initial administration of the drug or chemical shall occur in the same room and in the physical presence of the physician who prescribed, dispensed, or otherwise provided the drug or chemical to the patient.

2. The physician who induces the abortion, or a person acting on behalf of the physician who induces the abortion, shall make all reasonable efforts to ensure that the patient returns twelve (12) to eighteen (18) days after the administration or use of mifepristone or another drug or chemical for a follow-up visit so that the physician can confirm that the pregnancy has been terminated and can assess the patient's medical condition.

3. A brief description of the efforts made to comply with this section, including the date, time, and identification by name of the person making the efforts, shall be included in the patient's medical record.

H. This section does not affect telemedicine practice that does not involve the use of mifepristone or another drug or chemical to induce an abortion.

I. 1. If the Arkansas State Medical Board finds that a physician licensed by the board has violated the rules of professional conduct by performing an abortion in violation of Act 139 of 2015, the board shall revoke the physician's license.

2. A penalty shall not be assessed against the woman upon whom the abortion is performed or attempted to be performed.

J. 1. A) A woman who receives an abortion, the father of the unborn child who was the subject of the abortion if the father was married to the woman who received the abortion at the time the abortion was performed, or a maternal grandparent of the unborn child may maintain an action against the person who performed the abortion in violation of this section for actual and punitive damages.

(B) A woman who attempts to receive an abortion in violation of this section may maintain an action against the person who attempted to perform the abortion for actual and punitive damages.

2. (A) Upon petition by any citizen in the county in which an alleged violation of this section occurred or in which the Defendant resides, a court may enjoin a healthcare professional who has knowingly or recklessly violated this section.

(B) An injunction under subdivision J.2(A) of this section shall prevent the abortion provider from performing further abortions in violation of this section.

K. 1. If a judgment is rendered in favor of the Plaintiff who prevails in an action under subsection J of this section, the court shall award reasonable attorney's fees and costs in favor of the Plaintiff against the Defendant.

2. If a judgment is rendered in favor of the Defendant and the court finds that the Plaintiff's suit was frivolous and brought in bad faith, the court shall order the Plaintiff to pay reasonable attorney's fees to the Defendant.

L. A pregnant woman who obtains or possesses mifepristone or another drug or chemical used for the purpose of inducing an abortion to terminate her pregnancy shall not be subject to an action under subsection J of this section.

M. 1. In a civil proceeding or action brought under this section, the court shall determine if the anonymity of a woman who receives or attempts to receive an abortion shall be preserved from public disclosure without her consent.

2. (A) Upon determining that the woman's anonymity shall be preserved, the court shall issue an order to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure.

2. (B) An order under subdivision M.2.A. of this section shall be accompanied by specific written findings explaining:

i.) Why the anonymity of the woman should be preserved from public disclosure;

ii.) Why the order is essential to that end;

iii.) How the order is narrowly tailored to serve that interest; and

iv.) Why no reasonable, less restrictive alternative exists.

(C) In the absence of written consent of the woman who receives or attempts to receive an abortion, anyone other than a public official who brings an action under subsection J of this section shall bring the action under a pseudonym.

(D) This subsection does not conceal the identity of the Plaintiff or of a witness from the Defendant.

N. This section does not create or recognize a right to abortion.

Unlawful distribution of abortion-inducing drug.

(a) Abortion-inducing drugs shall only be prescribed, administered, dispensed, or otherwise provided by a physician following procedures set out below and in Ark. Code Ann. §20-16-1501 *et seq*.

(b) It is unlawful for any manufacturer, supplier, physician, or any other person to provide any abortion-inducing drug via courier, delivery, or mail service.

(c) Before providing an abortion-inducing drug, the physician prescribing, administering, dispensing, or otherwise providing the abortion-inducing drug shall:

(1) Examine the pregnant woman in person;

(2) Independently verify that an intrauterine pregnancy exists;

(3)(A) Determine the woman's blood type.

(B) If the pregnant woman is Rh negative, the physician shall be able to offer and administer RhoGAM at the time of the abortion; and

(4) Document in the pregnant woman's medical chart or record the gestational age and intrauterine location of the pregnancy and whether the pregnant woman received treatment for Rh negativity.

(d) A physician prescribing, administering, dispensing, or otherwise providing an abortion-inducing drug shall be credentialed and competent to handle abortion complication management, including emergency transfer, or have a signed agreement with an associated physician who is credentialed to handle abortion complications.

(e) When a signed agreement exists between an associated physician, every pregnant woman to whom a physician prescribes, administers, dispenses, or otherwise provides an abortion-inducing drug shall be given the name and telephone number of the associated physician.

(f) The physician prescribing, administering, dispensing, or otherwise providing an abortion-inducing drug or an agent of the physician shall schedule a follow-up visit for the woman at approximately seven (7) to fourteen (14) days after administration of the abortion-inducing drug to confirm that the pregnancy is completely terminated and to assess the degree of bleeding.

(g) The physician or an agent of the physician shall make all reasonable efforts to ensure that the woman returns for the scheduled follow-up appointment.

(h) A brief description of all efforts made to comply with subsections (f) and (g) of this section, including the date, time, and identification by name of the person making such efforts, shall be included in the woman's medical chart or record.

Reporting

(a) If a physician provides an abortion -inducing drug to another for the purpose of inducing an abortion as authorized herein, and if the physician knows that the woman who uses the abortion-inducing drug for the purpose of inducing an abortion experiences an adverse event, the physician shall provide a written report of the adverse event within three (3) days of the event to the Arkansas State Medical Board

(b) The Board

a. Shall compile and retain all reports it receives under this section.

b. Shall not release to any person or entity the name or any other personal identifying information regarding a person who:

i. Uses an abortion-inducing drug to induce an abortion; and

ii. Is the subject of a report received by the board under this section.

Prior to Informed Consent

(a) An abortion provider who knowingly performs an abortion shall comply with the requirements of this section.

(b) Before a pregnant woman gives informed consent to an abortion or is administered any anesthesia or medication in preparation of an abortion, the physician or qualified technician shall:

a. Perform an obstetric ultrasound on the pregnant woman using a method that the physician and the pregnant woman agree is best under the circumstances;

b. i. Provide a simultaneous verbal explanation of what the ultrasound is depicting that includes the presence and location of the unborn child within the uterus and the number of unborn children depicted.

ii. If the ultrasound image indicates that the unborn child has died, the physician or qualified technician shall inform the pregnant woman of that fact;

c. Display the ultrasound images so that the pregnant woman may view them and document in the pregnant woman's medical record that the ultrasound images were displayed to the pregnant woman;

d. Provide a medical description of the ultrasound images, including the dimensions of the unborn child and the presence of external members and internal organs if present and viewable; and

e. Retain the ultrasound image with the date that the ultrasound occurred in the pregnant woman's medical record.

Informed Consent Requirement

(a) A person shall not perform or induce an abortion or chemical abortion without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced.

(b) Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if:

a. At least seventy-two (72) hours before the abortion, the physician who is to perform the abortion or chemical abortion or the referring physician has informed the woman, orally and in person, of the following:

i. The name of the physician who will perform the abortion;

ii. Medically accurate information that a reasonable patient would consider material to the decision concerning whether or not to undergo the abortion, including:

1. A description of the proposed abortion method;

2. The immediate and long-term medical risks associated with the proposed abortion method, including without limitation the risks of:

a. Cervical or uterine perforation;

b. Danger to subsequent pregnancies;

c. Hemorrhage;

d. Sepsis or other Infection;

e. Failure to remove all pregnancy tissue which may require additional procedure;

f. Sterility;

g. Possible continuation of pregnancy; and

h. Death;

3. Alternatives to the abortion; and

4. Risks of complications from a chemical abortion increase with advancing gestational age;

iii. The probable gestational age of the unborn child at the time the abortion is to be performed;

iv. The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed;

v. The medical risks associated with carrying the unborn child to term;

vi. Any need for anti-Rh immune globulin therapy if the woman is Rh negative, the likely consequences of refusing such therapy, and the cost of the therapy;

vii. Information on reversing the effects of abortion-inducing drugs;

viii. Information about post-abortion care, including how to handle and respond to and report complications from the chemical abortion; and

ix. Information on scheduling post-abortion medical visits to ensure completion of the abortion, assess the need for additional procedures or care, and assess bleeding or other potential complications;

b. At least seventy-two (72) hours before the abortion or chemical abortion, the physician who is to perform the abortion, the referring physician, or a qualified person informs the woman, orally and in person, that;

i. Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials and informational DVD given to her under § 20-16-1704;

ii. The printed materials and information DVD under § 20-16-1704 describe the unborn child and list agencies that offer alternatives to abortion;

iii. The father of the unborn child is liable to assist in the support of the child, even in instances where he has offered to pay for the abortion. In a case of rape or incest, the information required under this subsection may be omitted.

iv. The woman is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she otherwise might be entitled;

v. The information contained in the printed materials and information DVD given to her under § 20-16-15704, is also available on a state website; and

vi. Human trafficking literature, also known as "Laura's Card", as described in §16-90-1107;

c. (A) The information required under subdivisions b(a) and (b) of this section is provided to the woman individually and in a private room to protect her privacy to maintain the confidentiality of her decision, to ensure that the information focuses on her individual circumstances, and to ensure that she has an adequate opportunity to ask questions.

(B) Subdivision (c)c.(A) of this section does not preclude the provision of required information through a translator in a language understood by the woman;

d. (A) At least seventy-two (72) hours before the abortion, the woman is given a copy of the printed materials and permitted to view and given a copy of the information DVD under § 20-16-1704

(B) If the woman is unable to read the materials, the materials shall be read to her in a language she can understand.

(C) If the woman asks questions concerning any of the information or materials under this subdivision d, the person who provides or reads the information or materials shall answer her questions in a language she can understand.

e. (A) at least seventy-two (72) hours before an abortion is performed or induced on a woman whose pregnancy has progressed to twenty (20) weeks gestation or more, the physician performing the abortion on the pregnant woman, the referring physician, or a qualified person assisting the physician shall, orally and in person, offer information on fetal pain to the patient

(B) The information required under the previous section and counseling related to that information shall include without limitation the following:

i. That by twenty (20) weeks gestational age, the unborn child possesses all anatomical links in its nervous system, including spinal cord, nerve tracts, thalamus, and cortex, that are necessary in order to feel pain;

ii. That an unborn child at twenty (20) weeks gestation or more is fully capable of experiencing pain;

iii. A description of the actual steps in the abortion procedure to be performed or induced and at which steps in the abortion procedure the unborn child is capable of feeling pain;

iv. That maternal anesthesia typically offers little pain prevention for the unborn child; and

v. That an anesthetic, analgesic, or both are available so that pain to the unborn child is minimized or alleviated.

f. (A) Before the abortion, the pregnant woman certifies in writing on a checklist form provided or approved by the Department of Health that the information required under this section has been provided.

(B) A physician who performs an abortion shall report monthly to the department the total number of certifications the physician has received.

(C) The department shall make available to the public annually the number of certifications received under this section.

g. (A) Except in the case of a medical emergency, the physician who is to perform the abortion shall receive and sign a copy of the written certification required under this section before performing the abortion.

(B) The physician shall retain a copy of the checklist certification form in the pregnant woman's medical record; and

h. At least seventy-two (72) hours before an abortion that is being performed or induced utilizing abortion-inducing drugs, the physician who is to perform the abortion, the referring physician, or a qualified person informs the pregnant woman, orally and in person, that:

(A) It may be possible to reverse the effects of the abortion if the pregnant woman changes her mind, but that time is of the essence; and

(B) Information on reversing the effects of abortion-inducing drugs is available in materials prepared by the department.

(c) (1) In the event of a medical emergency requiring an immediate termination of pregnancy, the physician who performed the abortion clearly certifies in writing the nature of the medical emergency and the circumstances that necessitated the waiving of the informed consent requirements under this subchapter.

(2) The certification required under this chapter shall be signed by the physician who performed the emergency abortion and shall be permanently filed in both the records of the physician performing the abortion and the records of the facility where the abortion took place.

(d) A physician, facility, employee or volunteer of a facility, or any other person or entity shall not require or obtain payment for a service provided in relation to abortion to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the seventy-two (72) hour reflection period required under this section.

(e) All ultrasound images, test results, and forms signed by the patient or legal guardian shall be retained as a part of the patient's medical record and be made available for inspection by the department or other authorized agency.

(f) (1) After dispensing the first dose of abortion-inducing drugs to a woman, the physician who is to perform the abortion, the referring physician, or a qualified person shall provide a written notice to the patient that states: "Notice to Patients Having Medication Abortions That Use Mifepristone: Mifepristone, also known as 'RU-486' or 'Mifeprex', alone is not always effective in ending a pregnancy. It may be possible to reverse its intended effect if the second pill or tablet has not been taken or administered. If you change your mind and wish to try to continue the pregnancy, you can locate immediate help by searching the term 'abortion pill reversal' on the internet."

(2) The notice shall also include directions to access the department website that is required to be maintained under § 20-16-1704 and other appropriate telephone and internet resources.

(g) Except in the case of a medical emergency, consent to an abortion when the unborn child has been diagnosed with a lethal fetal anomaly is voluntary and informed only if at least seventy-two (72) hours before the abortion:

(1) The physician performing the abortion has verbally informed the pregnant woman that perinatal palliative care services are available and has offered perinatal palliative care services as an alternative to abortion; and

(2) The pregnant woman is given a list of perinatal palliative care services available both in the state and nationally that is prepared by the Department of Health and organized geographically by location.

History**:** Adopted December 4, 2014; Amended April 7, 2016; Effective July 1, 2016; Amended March 22, 2022, Effective July 11, 2022.

RULE No. 37: ARKANSAS GRADUATE REGISTERED PHYSICIAN ACT

Act 929 of 2015 codified in A.C.A. §17-95-901-917

I. Definitions.

A. "Graduate registered physician" means an individual who:

1. Is a resident of Arkansas who has graduated from an accredited allopathic medical school or osteopathic medical school and is not currently enrolled in an accredited graduate medical education training program; or
2. Is a citizen of the United States or a legal resident alien who has graduated from an accredited Arkansas allopathic medical school medical school or Arkansas osteopathic medical school and is not currently enrolled in an accredited graduate medical education training program.
3. The graduate registered physician is a dependent medical practitioner who:
4. Only provides healthcare services under the supervision of a physician; and
5. Works under a physician-drafted protocol approved by the Arkansas State Medical Board, which describes how the graduate registered physician and the physician will work together and practice guidelines required by the supervising physician;

B. "Medical school" means an accredited allopathic medical school or osteopathic medical school;

C. "Resident of Arkansas" means a natural person who provides evidence deemed sufficient to the Arkansas State Medical Board that the person uses an Arkansas residence address for federal or state tax purposes;

1. "Supervising physician" means a physician who is board eligible in his or her specialty and licensed under the Arkansas Medical Practices Act, §17-95-201 et seq., § 17-95-301 et seq., and §17-95-401 et seq., who has agreed to practice in consultation with a graduate registered physician and; and

D. "Supervision" means overseeing the activities of and accepting responsibility for the medical services rendered by a graduate registered physician.

1. Supervision of each graduate registered physician by a physician or physicians shall be continuous.

II. Qualifications for licensure.

A. Except as otherwise provided in this subchapter, an individual shall be licensed by the Arkansas State Medical Board before the individual may practice as a graduate registered physician.

B. The board may grant a license as a graduate registered physician to an applicant who:
   1. Submits an application on forms approved by the board; The application and licensing fees shall be the same amount as those paid by regular physicians;
   2. Has successfully completed Step 1 and Step 2 of the United States Medical Licensing Examination, Comprehensive Osteopathic Medical Licensing Examination, or the equivalent of both steps of an Arkansas State Medical Board-approved medically licensing examination within the two-year period immediately preceding application for licensure as a graduate registered physician, but not more than two (2) years after graduation from a medical school, an allopathic medical college, or an osteopathic medical college; All graduates must have already passed Step 1 and Step 2 of the United States Medical Licensing Examination, Comprehensive Osteopathic Medical Licensing Examination, as well as the COMLEX Cognitive Evaluation and Performance Evaluation prior to graduating from Medical School. Any individual applying for graduate registered physician will be held to the same standards as outlined in Board Rule 3 and 14 with regard to the number of pass attempts for each step.
   3. Has not completed an accredited postgraduate residency but has successfully completed Step 2 of the United States Medical Licensing Examination or the equivalent of Step 2 from a board accredited medically licensing examination within the two-year period immediately preceding application for licensure as graduate registered physician;
   4. Has no licensure, certification, or registration under current discipline, revocation, suspension, or probation for cause resulting from the applicant's medical practice, unless the board considers the conditions and agrees to licensure;
   5. Enters into a physician-drafted protocol within six (6) months of initial licensure and;
   6. Submits to the board any other information that the board deems necessary to evaluate the applicant's qualifications.

C. Individuals applying to practice as graduate registered physicians shall be subject to criminal background checks as outlined in 17-95-306.

D. Registered graduate physician applicant must obtain supervising physician who is in good standing pursuant to Section VI.D below and appear before the Board for approval prior to practicing.

E. The license will expire the day the physician enters residency.

III. Renewal.

A. Upon notification from the Arkansas State Medical Board, an individual who holds a license as a graduate registered physician in this state shall renew the license by:
   1. The renewal fees shall be the same amount as those of regular physicians;
   2. Completing the appropriate renewal forms;
   3. Submitting verification of actual practice under a physician-drafted protocol during the immediately preceding licensure period; and
   4. Meeting other requirements set by the board.

B. The Arkansas State Medical Board shall determine the renewal period.

C. An individual who holds a license as a graduate registered physician in this state cannot renew his or her license more than two times after the initial license has been granted.

IV. Scope of authority.

A. A graduate registered physician
   1. May provide healthcare services with physician supervision.
   2. The supervising physician shall be identified on all prescriptions and orders.
   3. A graduate registered physician may perform those duties and responsibilities, including the prescribing, ordering, and administering of drugs and medical devices that are delegated by his or her supervising physician.

B. A graduate registered physician shall be considered the agent of his or her supervising physician in the performance of all practice-related activities, including but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

C. A graduate registered physician may perform healthcare services in a setting authorized by the supervising physician in accordance with any applicable facility policy.

V. Prescriptive authority.

A. A physician who is supervising a graduate registered physician may

1. Delegate prescriptive authority to a graduate registered physician to include prescribing, ordering, and administering Schedules III-V controlled substances as described in the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-510, and 21 C.F.R. Part 1300, all legend drugs, and all nonscheduled prescription medications and medical devices.
2. All prescriptions and orders issued by a graduate registered physician also shall identify his or her supervising physician.

B. A graduate registered physician's level of prescriptive authority shall not exceed the authority of the supervising physician.

C. A graduate registered physician who prescribes controlled substances shall register with the Drug Enforcement Administration as part of the Drug Enforcement Administration's Mid-Level Practitioner Registry, C.F.R. Part 1300, 58 FR 31171-31175, and the Controlled Substances Act, 21 30 U.S.C. § 801 et seq.

VI. Supervision.

A. Supervision of a graduate registered physician shall be continuous and require the physical presence of the supervising physician at the place that the services are rendered.

B. Each team of physicians and graduate registered physicians has an obligation to ensure that:
1. The graduate registered physician's scope of practice is identified;
2. The delegation of a medical task is appropriate to the graduate registered physician's level of competence;
3. The relationship and access to the supervising physician is defined; and
4. A process of evaluation of the graduate registered physician's performance is established.

C. The graduate registered physician and supervising physician may designate back-up physicians who agree to supervise the graduate registered physician during the absence of the supervising physician.

D. A physician who desires to supervise a graduate registered physician shall:
1. Be licensed in this state and must have an unencumbered license, and have no disciplinary action by the Arkansas State Medical Board;
2. Notify the Arkansas State Medical Board of his or her intent to supervise a graduate registered physician;
3. Submit a statement to the board that he or she will exercise supervision over the graduate registered physician in accordance with rules adopted by the board; and
4. Limit supervision to no more than two (2) graduate registered physicians per supervising physician.

VII. Notification of intent to practice.

A. Before initiating practice, a graduate registered physician licensed in this state must submit on forms approved by the Arkansas State Medical Board notification of an intent to practice.

B. The notification shall include:
1. The name, business address, email address, and telephone number of the supervising physician; and
2. The name, business address, and telephone number of the graduate registered physician.

C. A graduate registered physician shall notify the board of any changes or additions in supervising physicians within ten (10) calendar days. If a graduate registered physician leaves their current employment, their license would become “Inactive.”

VIII. Exclusions of limitations of employment

This chapter shall not be construed to limit the employment arrangement of a graduate registered physician licensed under this subchapter.

IX. Violation.

Following the exercise of due process, the Arkansas State Medical Board may discipline a graduate registered physician who:

A. Fraudulently or deceptively obtains or attempts to obtain a license;

B. Fraudulently or deceptively uses a license;

C. Violates any provision of this subchapter or any rules adopted by the board pertaining to this chapter;

D. Is convicted of a felony;

E. Is a habitual user of intoxicants or drugs to the extent that he or she is unable to safely perform as a graduate registered physician;

F. Has been adjudicated as mentally incompetent or has a mental condition that renders him or her unable to safely perform as a graduate registered physician; or

X. Disciplinary authority.

Upon finding that a graduate registered physician has committed an offense described in § 17-95-910, the Arkansas State Medical Board may:

A. Refuse to grant a license;
B. Administer a public or private reprimand;
C. Revoke, suspend, limit, or otherwise restrict a license;
D. Require a graduate registered physician to submit to the care, counseling, or treatment of a physician or physicians designated by the board;
E. Suspend enforcement of its finding and place the graduate registered physician on probation with right to vacate the probationary order for noncompliance; or
F. Restore or reissue, at its discretion, a license and impose any disciplinary or corrective measure that may have been imposed previously.

XI. Title and practice protection

An individual who is not licensed under this subchapter is guilty of a Class A misdemeanor and is subject to penalties applicable to the unlicensed practice of medicine if he or she:

A. Holds himself or herself out as a graduate registered physician; or
B. Uses any combination or abbreviation of the term "graduate registered physician" to indicate or imply that he or she is a graduate registered physician.

XII. Identification requirements.

A graduate registered physician licensed under this subchapter shall keep his or her license available for inspection at his or her primary place of business, and when engaged in professional activities, a graduate registered physician shall wear a name tag identifying himself or herself as a graduate registered physician, and immediately below the licensure of degree, information, in equal size or larger lettering.

XIII. Rule-making authority.

The Arkansas State Medical Board shall promulgate rules that are reasonable and necessary to implement this subchapter.

XIV. "Good Samaritan" provision.

A graduate registered physician shall be subject to the “Good Samaritan” provisions embodied in §17 -95-101.

XV. Patient care orders.

A. Patient care orders generated by a graduate registered physician shall be construed as having the same medical, health, and legal force and effect as if the orders were generated by his or her supervising physician, provided that the supervising physician's name is identified in the patient care order.
B. The orders shall be complied with and carried out as if the orders had been issued by the graduate registered physician's supervising physician.

XVI. Medical malpractice - Professional and legal liability for actions.

A graduate registered physician shall be covered under the provisions regarding medical malpractice and legal liability as such applies to his or her supervising physician as embodied in §§ 16-114-20 -16-114-203 and §§ 416-114-205 -16-114-209.

History: Adopted December 3, 2015; Effective February 10, 2016; Amended June 4, 2020; Effective August 7, 2020; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 38: TELEMEDICINE

Requirement for all services provided by Providers using telemedicine:

1. A Patient/Provider relationship must be established in accordance with Rule 2.8 before the delivery of services via telemedicine. Provider is defined as a person licensed by the Arkansas State Medical Board. A patient completing a medical history online and forwarding it to a Provider is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology.
2. The following requirements apply to all services provided by Providers using telemedicine:
   A. The practice of medicine via telemedicine shall be held to the same standards of care as traditional in-person encounters.

B. The Provider must obtain a detailed explanation of the patient's complaint from the patient or the patient's treating Provider.
C. If a decision is made to provide treatment, the Provider must agree to accept responsibility for the care of the patient.
D. If follow-up care is indicated, the Provider must agree to provide or arrange for such follow-up care.
E. A Provider using telemedicine may NOT issue a prescription for any controlled substances defined as any scheduled medication under schedules II through V unless the Provider has seen the patient for an in-person exam or unless a relationship exists through consultation or referral; on-call or cross-coverage situations; or through an ongoing personal or professional relationship.
F. The Provider must keep a documented medical record, including medical history.
G. At the patient's request, the Provider must make available to the patient an electronic or hardcopy version of the patient's medical record documenting the encounter. Additionally, unless the patient declines to consent, the Provider must forward a copy of the record of the encounter to the patient's regular treating Provider if that Provider is not the same one delivering the service via telemedicine.
H. Services must be delivered in a transparent manner, including providing access to information identifying the Provider in advance of the encounter, with licensure and board certifications, as well as patient financial responsibilities.
I. If the patient, at the recommendation of the Provider, needs to be seen in person for their current medical issue, the Provider must arrange to see the patient in person or direct the patient to their regular treating Provider or other appropriate provider if the patient does not have a treating Provider. Such recommendation shall be documented in the patient's medical record.
J. Providers who deliver services through telemedicine must establish protocols for referrals for emergency services.
K. All Providers providing care via telemedicine to a patient located within the State of Arkansas shall be licensed to practice medicine in the State of Arkansas.
L. A physician shall not issue a written medical marijuana certification to a patient based on an assessment performed through telemedicine. A Patient/Provider relationship established under Rule 2.8 may be utilized for medical marijuana recertification by telehealth. "Telehealth certification" means the electronic assessment of a patient by a provider in connection with an application for a registry identification card under the Arkansas Medical Marijuana Amendment of 2016.
M. Telemedicine does not include the use of audio-only electronic technology by a provider to renew a written certification that was previously issued to the same patient.

History**:** Adopted October 6, 2016, Effective December 25, 2016; Amended August 3, 2017, Effective October 4, 2017; Amended December 6, 2018, Effective June 15, 2019; Amended October 8, 2021, Effective October 14, 2022.

RULE No. 39: REINSTATEMENT OF ARKANSAS LICENSE

Pursuant to Ark. Code Ann. 17-1-107, and Act 1066 of the 2015 Arkansas Legislature, the Arkansas State Medical Board shall not require a person who meets credentialing requirements to participate in the apprenticeship, education, or training required as a prerequisite to licensing registration or certification of a new professional in the field.

A. The Arkansas State Medical Board may reinstate the license of a person who demonstrates that:
    1. He or she was previously licensed, registered, or certified to practice in the field of his or her profession at any time in the State of Arkansas;
    2. Held his or her license in good standing at the time of licensing;
    3. Did not have his or her license revoked for:
        a. An act of bad faith;
        b. A violation of law, rule, or ethic;
    4. Is not holding a suspended or probationary license in any state; and
    5. Is sufficiently competent in his or her field; and
    6. Pays any reinstatement fee required.
B. The Board may require that sufficient competency in a particular field be demonstrated by:
    1. Proficiency testing, which could include:
        a. A clinical skills assessment program evaluation;
        b. Refresher training;
        c. A mentorship program based on the Massachusetts State Medical Board's model;

d. Passage of special examinations, i.e. SPEX examination, Part III of the USMLE and/or
e. Passage of ABMS Board examination/initial or passage of an ABMS Board examination recertification.
f. Any physician re-entering a skills-based medical specialty will require a mentoring program determined on a case-by-case basis.

2. letters of recommendation; or
3. both proficiency testing and letters of recommendation.
4. Continuing education or training if the continuing education or training is required for all professionals in the field to maintain the license, registration, or certification, which could include fifty (50) hours of specialty specific category 1 credit for each inactive year of medical practice.

C. A person shall not be required to comply with requirements to obtain reinstatement of his or her license, registration, or certification if the person meets the requirements for reciprocity.

D. If a criminal background check is required of a person currently holding a license, registration, or certification, then the Arkansas State Medical Board may require a person seeking reinstatement under this section to meet the same criminal background check requirements as the person currently holding a license, registration, or certification.

History: Adopted February 4, 2016; Effective April 1, 2016; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 40: ARKANSAS SURGICAL TECHNOLOGISTS

1. DEFINITIONS:
   A. "Surgical technologist" means an individual who performs the skills and techniques of surgical technology under the direction and supervision of a licensed practitioner other than in the course of practicing as a licensed healthcare professional; and
   B. "Surgical technology" means surgical patient care that includes without limitation:
      (1) Preparing an operating room and a sterile field for surgical procedures by ensuring that surgical equipment is assembled and functioning properly and safely;
      (2) Preparing sterile supplies, instruments, and equipment using sterile technique;
      (3) Performing tasks in a sterile field, including:
         (a) Maintaining asepsis and a sterile operating field;
         (b) Passing supplies, equipment, or instruments according to the needs of the surgical team;
         (c) Sponging or suctioning an operative site;
         (d) Preparing and cutting suture material;
         (e) Providing irrigation solutions to the supervising physician and irrigating an operative site;
         (f) Providing drugs within the sterile field for administration by the supervising physician;
         (g) Handling specimens;
         (h) Holding retractors and other instruments;
         (i) Applying electrocautery to clamp on blood vessels;
         (j) Connecting drains to a suction apparatus;
         (k) Applying dressing to closed wounds; and
         (l) Performing counts of supplies such as sponges, needles, and instruments with the registered nurse circulator; and
      (4) The practice of surgical technology is a separate and distinct healthcare profession that does not include the practice of surgical assisting as performed by physician assistants, surgical assistants, or first assistants.
2. REGISTRATION:
   The Arkansas State Medical Board shall register as a surgical technologist an applicant who:
   A. Successfully completed a nationally accredited surgical technology program and holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor or a national organization approved by the Arkansas State Medical Board;
   B. Has successfully completed a surgical technologist training program during the person's service as a member of any branch of the United States Armed Forces; or

C. Has been employed to practice as a surgical technologist at any time within the six (6) months before July 1, 2017, if the applicant registers with the Arkansas State Medical Board on or before March 31, 2020.

3. TITLE PROTECTION:
   A person shall not use or assume the title "registered surgical technologist" unless the person is registered with the Arkansas State Medical Board.
4. RENEWAL:
   In order to maintain registration, each individual who holds a surgical technologist registration must renew the registration each year.
5. FEES:
   The Board will charge an application fee of $25.00 and an annual renewal fee of $10.00 for surgical technologists registered with the Board.

History: Adopted August 3, 2017. Effective October 29, 2017; Effective February 9, 2024.

RULE No. 41: PRESCRIPTION DRUG MONITORING PROGRAM

A. Pursuant to Arkansas Code Annotated §20-7-604(d), healthcare providers are encouraged to access or check the information in the controlled substance database before prescribing, dispensing, or administering medications. For purposes of this Rule a healthcare provider is defined as a "physician" or "physician assistant".
B. A healthcare provider shall check the information in the Prescription Drug Monitoring Program when prescribing:
   1. An opioid from Schedule II or Schedule III for every time prescribing the medication to a patient; and
   2. A benzodiazepine medication for the first time prescribing the medication to a patient.
C. This Rule does not apply to the following:
   1. A healthcare provider administering a controlled substance:
      i. Immediately before or during surgery;
      ii. During recovery from a surgery while in a healthcare facility;
      iii. In a healthcare facility; or
      iv. Necessary to treat a patient in an emergency situation at the scene of an emergency, in a licensed ground ambulance or air ambulance, or in the intensive care unit of a licensed hospital;
   2. A healthcare provider prescribing or administering a controlled substance to:
      i. A palliative care or hospice patient; or
      ii. A resident in a licensed nursing home facility; or
   3. Situations in which the Prescription Drug Monitoring Program is not accessible due to technological or electrical failure.
D. A licensed oncologist shall check the Prescription Drug Monitoring Program when prescribing to a patient on an initial malignant episodic diagnosis and every three (3) months following the diagnosis while continuing treatment.
E. A healthcare provider must document in the patient record that the Prescription Drug Monitoring Program was checked.
F. A healthcare provider who purposely fails to access the Prescription Drug Monitoring Program as required is subject to disciplinary action by the Arkansas State Medical Board.

History**:** Adopted August 3, 2017; Effective October 4, 2017; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 42: LICENSURE FOR UNIFORMED SERVICE MEMBERS, VETERANS, AND SPOUSES

1. Definitions:
   a. As used in this section, "expedited licensure" means the granting of occupational licensure without an individual's having met occupational licensure requirements provided under Title 17 of the Arkansas Code or by these Rules.
   b. As used in this section, "uniformed service veteran" means a former member of the United States Uniformed Services discharged under circumstances other than dishonorable.
   c. As used in this section, "uniformed service member" means an active or reserve component member of the United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space Force, National Guard, or the United States Commissioned Corps of the Public Health Service; or an active component member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

2. Licensure:
   a. The Arkansas State Medical Board shall allow the following individuals to secure employment with a temporary license, certificate, or permit while completing the application process for full licensure or certification or permitting if the individual is the holder in good standing of relevant and applicable uniformed service education, training, national certification, or service-issued credential toward occupational licensure qualifications or requirements, or the holder of a substantially equivalent license, certificate, or permit issued by another state:
      1) An active duty military service member stationed in the State of Arkansas;
      2) A returning military veteran; or
      3) The spouse of:
         A) A person under a (1) or (2) above;
         B) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or
         C) A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.
   b. The Board shall expedite the process and procedure for full licensure, certification, or permitting to an individual who is the holder in good standing of a license with a similar scope of practice issued by another state, territory, or district of the U.S and is:
      (1) A uniformed service member stationed in the State of Arkansas;
      (2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or
      (3) The spouse of:
         A) A person under a (1) or (2) above;
         B) (B) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or
         C) (C) A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.
   c. The Board shall expedite the process and procedure for full licensure, certification, or permitting to an individual who is the holder in good standing of a license with a similar scope of practice issued by another state, territory, or district of the U.S and is in receipt of all the below:
      (1) Payment of the initial licensure fee;
      (2) Evidence that the individual holds a license with a similar scope of practice in another state; and
      (3) Evidence that the applicant is a qualified applicant under Section 2. a. above.
   d. The expiration date of a license for a deployed uniform service member or spouse will be extended for one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.
   e. A full exemption from continuing education requirements will be allowed for a deployed uniform service member or spouse until one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.
   f. A temporary license, certificate, or permit granted under this section shall be in effect for at least ninety (90) days or until such time as the Board is able to take action on the expedited application.

History: Adopted December 6, 2018, Effective June 15, 2019; Amended March 2022: Effective July 3, 2022; Amended January 25, 2024: Effective February 9, 2024.

RULE No. 43: GENETIC COUNSELOR LICENSURE

A. Pursuant to Arkansas Code Annotated § 17-95-1101, this Rule shall be known and cited as the "Rule 43 - Arkansas Genetic Counselor Licensure."

B. Pursuant to Arkansas Code Annotated § 17-95-1102, definitions as used in this Rule: "Genetic counseling" means the process of assisting individuals with understanding and adapting to the medical, psychological, and familial implications of genetic contributions to disease, which includes without limitation:
   1. Interpreting family and medical histories to assess the chance of disease occurrence or recurrence.
   2. Educating an individual or an individual's family about inheritance, testing, management, prevention, resources, and research.
   3. Counseling an individual or an individual's family to promote informed choices and adaption to the risk or condition.

4. Estimating the likelihood of occurrence or recurrence of any potentially inherited or genetically influenced condition which may involve:
    a. Obtaining and analyzing a complete health history of the individual and the individual's family;
    b. Reviewing the pertinent medical records;
    c. Evaluating the risks from exposure to possible mutagens or teratogens; and
    d. Discussing genetic testing to assist in the diagnosis of a condition to determine the carrier status of one (1) or more family members.
5. Assisting the individual, the individual's family, the individual's healthcare provider, or the public to:
    a. Appreciate the medical, psychological, and social implications of a disorder, including the features, variability, usual course, and management options of the disorder;
    b. Learn how genetic factors contribute to the disorder and affect the chance for recurrence of the condition in other family members;
    c. Understand available options for coping with, preventing, or reducing the chance of occurrence or recurrence of a condition; and
    d. Understand genetic tests, including without limitation diagnostic genetic tests, screening tests, or predispositional genetic tests, coordinate testing for inherited disorders, and interpret complex genetic test results.
6. Facilitating an individual's or an individual's family's:
    a. Exploration of the perception of risk and burden associated with a genetic disorder;
    b. Decision-making regarding testing or medical interventions consistent with their beliefs, goals, needs, resources, culture, and ethical or moral views; and
    c. Adjustment and adaption to the condition or their genetic risk by addressing needs for psychological, social, and medical support.
7. "Licensed genetic counselor" means a person who is licensed under this Rule to engage in the practice of genetic counseling; and
8. "Supervision" means the ongoing, direct clinical review for the purposes of training or teaching, by an approved supervisor who monitors the performance of a person's supervised interaction with a client and provides regular documented face-to-face consultation, guidance, and instructions with respect to the clinical skills and competencies of the person supervised.
9. "Supervision" may include without limitation the review of case presentation, audio tapes, video tapes, and direct observation.

C. Pursuant to Arkansas Code Annotated § 17-95-1103 exemptions from genetic licensure. This Rule does not require licensure as a genetic counselor of:
1. An individual who is *licensed* or *lawfully* permitted to *practice by this* state as a healthcare professional and who is practicing within his or her scope of practice, including without limitation a physician or an advanced practice registered nurse.
2. An *individual* who has successfully completed an accredited genetic counseling training program and who is:
    a. Reapplying for the American Board of Genetic Counseling certification examination and gathering logbook case numbers under supervision in an approved genetic counseling training site; or
    b. Practicing under direct supervision of a licensed physician.
3. A student enrolled in an approved academic program in genetic counseling if the practice constitutes a part of a supervised course of study and the student is designated by a title that clearly indicates the student's status as a student or trainee.
4. An individual who is employed by a state genetics center to provide education regarding single gene conditions, including without limitation sickle cell, cystic fibrosis, and hemoglobinopathies.
5. An individual described in subdivision E(4) of this section shall not use the title "genetic counselor" or any other title tending to indicate that he or she is a genetic counselor unless he or she is licensed in this state.
    a. A visiting genetic counselor who is certified by the American Board of Genetic Counseling or American Board of Medical Genetics from outside the state performing activities and services for a period of thirty (30) days each year.
    b. A visiting genetic counselor shall be licensed if the license is available in his or her home state.

D. Pursuant to Arkansas Code Annotated § 17-95-1104, Authority of the Arkansas State Medical Board. The Arkansas State Medical Board shall:
    1. Receive, review, and approve applications for genetic counselor licensure.
    2. Issue, renew, suspend, revoke, or deny licensure as a genetic counselor.
    3. Conduct hearings on investigative and disciplinary proceedings.
    4. Maintain a database of all licensees and all persons whose license has been suspended, revoked, or denied.
        a. Access to a database under subdivision D of this section shall be available upon written request.
    5. Perform other functions and duties required to carry out this Rule.
E. Pursuant to Arkansas Code Annotated § 17-95-1105 Title Protection. A person shall not use or assume the titled "licensed genetic counselor" or "genetic counselor" or use any words, letters, abbreviations, or insignia indicating or implying that the person holds a genetic counselor license unless the person is licensed by the Arkansas State Medical Board.
F. Pursuant to Arkansas Code Annotated § 17-95-1106 Genetic counselor licensure. The Arkansas State Medical Board shall license as a *licensed genetic* counselor an applicant who:
    1. Submits an application approved by the Arkansas State Medical Board.
    2. Pays an application fee of $90.00 that is comparable to other fees for licensure of other midlevel healthcare professionals licensed by the Arkansas State Medical Board and provides evidence of:
        a. Having earned a master's degree from a genetic counseling training program that is accredited by the American Board of Genetic Counseling or an equivalent as determined by the American Board of Genetic Counseling or the American Board of Medical Genetics; and
        b. Meets the examination requirements for certification and has current certification as a genetic counselor by the American Board of Genetic Counseling or the American Board of Medical Genetics.
    3. The Arkansas State Medical Board may issue a license to an applicant who provides evidence that he or she is licensed to practice as a genetic counselor in another state or territory if the requirements for licensure in the other state or territory are equal to the requirements in this Rule.
    4. The issuance of a license by reciprocity shall be at the sole discretion of the Arkansas State Medical Board. The Board shall issue a license by reciprocity if:
        a. The applicant submits a fully-executed application, the required fee of $90.00;
        b. Evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas';
        c. Evidence of current and active licensure in the state; and
        d. Evidence that the other state's licensure requirements match those of Arkansas and this Rule.
G. Pursuant to Arkansas Code Annotated § 17-95-1107, Renewal of genetic counselor license.
    1. Except in the case of a temporary license under § 17-95-1108, a license shall be valid for a two-year period from the date of issuance.
    2. Upon receipt of a renewal application and renewal fees of $100.00, the Board shall renew a license to practice as a *licensed genetic* counselor. A late fee of $50.00 shall be charged for a renewal not filed within the licensure time period.
    3. As a condition of licensure renewal, a *licensed genetic* counselor shall submit documentation that he or she has completed fifty (50) hours of continuing education units approved by the Board.
    4. A *licensed genetic* counselor is responsible for maintaining:
        a. Competent records of having completed qualified professional education for a period of four (4) years after close of the two-year period to which the records pertain; and

        b. Information with respect to having completed a qualified professional education to demonstrate that the education meets the requirements of this Rule.
    5. The Arkansas State Medical Board may waive the continuing education requirement or grant an extension of time to complete the continuing education requirement in cases of retirement, illness, disability, or other undue hardship.
H. Pursuant to Arkansas Code Annotated § 17-95-1108 the Arkansas State Medical Board may issue a temporary license.
    1. If the applicant:
        a. Has been granted an active-candidate status by the American Board of Genetic Counseling; and

(i) The Arkansas State Medical Board may issue a temporary license, to an applicant who does not meet the certification requirement in § 17-95-1106.

b. Applies for and takes the certification examination within twelve (12) months of the issuance of a temporary license and submits an application and application fees of $50.00; and

2. A temporary license is valid for one (1) year from the date of issuance.

3. A temporary license may be renewed for one (1) year if the applicant fails his or her first attempt to pass the certification examination of the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics.

4. An application for renewal shall be signed by a supervisor of the applicant.

5. A temporary license shall expire automatically upon the earliest of:
   a. The date of issuance of a license under § 17-95-1106;
   b. Ninety (90) days after the date that the applicant fails on his or her second attempt to pass the certification examination; or
   c. The date printed on the temporary license.

6. As a condition of a temporary licensure, an applicant shall work under the supervision of a licensed genetic counselor or a licensed physician with current American Board of Genetic Counseling certification in clinical genetics when the applicant provides genetic counseling services.

7. A temporary license shall not be issued if the applicant has failed the American Board of Genetic Counseling certification examination more than two (2) times.

I. Pursuant to Arkansas Code Annotated § 17-95-1109 Denial, Suspension, Revocation, or Refusal to Renew – Censure.

1. The Arkansas State Medical Board may deny, suspend, revoke, or refuse to renew a license, or may reprimand, censure, place on probation, or otherwise discipline a licensee, upon proof that the licensee has:
   a. Obtained or attempted to obtain a license by fraud or deception;
   b. Been convicted of a felony under state or federal law;
   c. Been adjudicated mentally ill or incompetent by a court;
   d. Used illicit drugs or intoxicating *liquors, narcotics, controlled substances, or other drugs or stimulants* to an extent that adversely affects the practice of genetic counseling;
   e. Engaged in unethical or unprofessional conduct, including without limitation willful acts, negligence, or incompetence in the course of professional practice;
   f. Violated any provision of this Rule or any rule of the Board; or
   g. Been denied licensure or disciplined in another state or territory in connection with a license in another state or territory.

2. A licensee under subsection I(1) of this section shall promptly deliver his or her license to the Board if the licensee:
   a. Has his or her license suspended or revoked; or
   b. Surrenders his or her license with or without prejudice if the surrender is approved by the Board.

3. The Board may restore a license or remove a probation on a license based upon the decision of the Board after a hearing.

J. Pursuant to Arkansas Code Annotated § 17-95-1110 Surrendering license due to retirement.

1. In order to retire his or her license, a licensed genetic counselor shall file an affidavit with the Arkansas State Medical Board stating the date on which the individual will retire or has retired, and other information determined necessary by the Board.

2. If a licensed genetic counselor retires his or her licensed as described in subsection J(1) of this section, the individual shall apply for licensure as provided in § 17-95-1106 and is not liable for renewal fees that may accrue during the retirement period.

History: Adopted October 3, 2019, implementation date, November 28, 2019; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 44: 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.*

History: Adopted June 4, 2020; Effective August 7, 2020; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 45: RECIPROCITY

Pursuant to Act 1011 of 2019:

A. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:
    1. The applicant shall hold a substantially similar license in another United States jurisdiction.
        a. A license from another state is substantially similar to an Arkansas medical license if the other state's licensure qualifications require:
            i. The application must meet the educational requirements of Ark. Code. Ann. § 17-95-403 or Ark. Code Ann. § 17-105-102;
        b. The applicant shall hold his or her occupational licensure in good standing;
        c. The applicant shall not have had a license revoked for:
            i. An act of bad faith; or
            ii. A violation of law, rule, or ethics.
        d. The applicant shall not hold a suspended or probationary license in a United States jurisdiction.
    2. The applicant shall be sufficiently competent in the medical field.
B. Required Documentation. An applicant shall submit a fully-executed application, the required fee, pursuant to Ark. Code Ann. §17-95-411, Ark. Code Ann. §17-95-107(7)(e), Ark. Code Ann. §17-105-117, Ark. Code Ann. §17-88-384(2), and Rule 6(5), Ark. Code Ann. §17-99-302 and Rule 10 and the documentation described below:
    1. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas', the applicant shall submit the following information:
        a. Evidence of current and active licensure in the state. The Board may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other state's licensing board; and

b. Evidence that the other state's licensure requirements match those listed in A.1.a.i. The Board may verify this information online or by telephone to the other state's licensing board.

2. To demonstrate that the applicant meets the requirement in A.1.b through d., the applicant shall provide the Board with:
   a. The names of all states in which the applicant is currently licensed or has been previously licensed;
   b. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for the reasons listed in A.1.c. and does not hold a license on suspended or probationary status as described in A.1.d. The Board may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other state's licensing board.
3. As evidence that the applicant is sufficiently competent in the field of medicine, an applicant shall:
   a. Pass testing requirements as outlined in Ark. Code Ann. § 17-95-403 or Ark. Code Ann. § 17-105-102.
   b. Submit letters of recommendation as outlined in Ark. Code Ann. § 17-95-403 or Ark. Code Ann. § 17-105-102.

History: Adopted October 1, 2020; Effective December 3, 2020; Amended March 22, 2022; Effective July 11, 2022.

RULE No. 46: ADMINISTRATIVE FEES AND FEE WAIVERS

Act 1101 of 2021 requires an agency assessing or imposing a fee or penalty to promulgate the fee or penalty by rule.

Applications for License:		
M.D./D.O.	$500 ($400 Application + $100 CCVS Assessment)	
Occupational Therapist	$75	
Occupational Therapist Assistant	$50	
Respiratory Therapist	$75	
Physician Assistant	$80	
Radiology Assistant	$75	
Radiology Practitioner Assistant	$75	
Licensed Genetic Counselor	$90	
Surgical Technologist	$25	
Medical Corporation	$25	
Temporary Permits:		
M.D./D.O.	$50	
Occupational Therapist	$25	
Occupational Therapist Assistant	$25	
Respiratory Therapist	$35	
Physician Assistant	$10	
Licensed Genetic Counselor	$50	
License Renewal:		
M.D./D.O.	$220 one year/$440 two years	
Occupational Therapist	$65	
Occupational Therapist Assistant	$65	($50 late fee per year)
Respiratory Therapist	$40	($25 late fee per year)
Physician Assistant	$50	($25 late fee per year)
Radiology Assistant	$60	($10 late fee per year)
Radiology Practitioner Assistant	$60	($25 late fee per year)

Licensed Genetic Counselor	$100	
Surgical Technologist	$10	
Medical Corporation	$10	($50 late fee per year)

Miscellaneous:

Certification of License	$15
Verification of License	$0
Replacement of Wall Certificate	$30
Criminal Background Check (State & Federal)	$36.25
Return Check Fee	$25
Board Orders	$0

Act 725 of 2021 requires the Board to waive the application fee if the applicant:

1. Is receiving assistance through the Arkansas Medicaid Program; the Supplemental Nutrition Assistance Program; the Special Supplemental Nutrition Program for Women, Infants, and Children; the Temporary Assistance for Needy Families Program; or the Lifeline Assistance Program;
2. Was approved for unemployment within the last twelve (12) months; or
3. Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

History**:** Act 1101 of 2021; Act 725 of 2021, Adopted April 4, 2022, Effective October 14, 2022.