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July 24, 2020

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

**Re: My Client: Arkansas State Medical Board
Amendment to Rule 37 – Arkansas Graduate Registered Physician Act**

To Whom It May Concern:

Enclosed please find the following documents:

1. Arkansas Register Transmittal Sheet; and
2. Amendment to Rule 37 – Arkansas Graduate Registered Physician Act.

Please file this accordingly.

Sincerely,

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



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

KMO:ena
enclosure

cc: Ms. Amy Embry, Executive Director (via e-mail Amy.Embry@armedicalboard.org)
Matt Gilmore (via e-mail matt.gilmore@arkansas.gov)

ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State

John Thurston

500 Woodlane, Suite 026

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For Office

Use Only:

Effective Date _____ Code Number _____

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

Department Department of Health

Contact Amy Embry, Executive Director E-mail Amy.Embry@armedicalboard.org Phone 501-296-1802

Statutory Authority for Promulgating Rules _____

Rule Title: Rule 37 - Arkansas Graduate Registered Physician Act

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

4/28/2020

5/12/2020

7/22/2020

6/4/2020

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

Kevin O'Dwyer

kodwyer@htolaw.com

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

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

Amy E. Embry

Signature

501-296-1892

Phone Number

Executive Director

Amy.Embry@armedicalboard.org

E-mail Address

Title

7-23-2020

Date

RULE 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 Regulations 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;

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 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
- G. Has committed an act of moral turpitude.

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.