

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
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Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

Proposed New Chapter IX, Article I – Pre-Licensure Criminal Background Check

SUMMARY OF PUBLIC COMMENTS

COMMENTER’S NAME: Vicki Farmer

COMMENTER’S AGENCY: Arkansas Optometric Association

SUMMARY OF COMMENT: Vicki Farmer questions regarding where Chapter IX, Article I – Pre-Licensure Criminal Background Check was published.

AGENCY’S RESPONSE TO COMMENT: Kevin O’Dwyer responded that it was published in the Daily Record.

Chapter IX, Article I

Summary

Proposed rule for pre-licensure criminal background check to determine if an individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.

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CHAPTER IX, ARTICLE I - 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.*

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THE DAILY RECORD

STATE OF ARKANSAS

Pulaski County

I, Bobby Burton, so solemnly swear that I am the COO of the Daily Record, a newspaper of general circulation in Pulaski County, State of Arkansas; that I was COO of The Daily Record at and during the publication of the annexed legal notice in the matter of:

Chapter IX Article I

Public Hearing

pending in the Court in said County, and at dates of the several publications of said legal notice hereinafter stated, and that during said periods and at said dates, said newspaper was published and had a bona fide circulation in said County and State; that said newspaper had been regularly published in said County and State, and had a bona fide circulation therein for the period of one month before the date of the first publication of said legal notice; and that said legal notice was published in the regular daily issues of said newspaper on the following days:

03/24/20 03/31/20 04/07/20

This ad was published online at www.dailyrecord.us and www.publicnoticeads.com for the duration of the run dates listed above.

William R. Burton

COO

Subscribed and sworn before me this 7th of April, 2020



Melissa Miller

Notary Public

NOTICE OF PUBLIC HEARING In compliance with ACA §25-15-234, the Arkansas State Board of Optometry gives notice that it will conduct a public hearing at 1:30 p.m. on the 23rd day of April, 2020, at the offices of the Arkansas Attorney General, 323 Center Street, 2nd Floor, Little Rock, Arkansas 72201. The public hearing will involve the adoption of Chapter IX, Article I - Pre-Licensure Criminal Background Check. All individuals desiring to attend said hearing may do so. All individuals desiring to address the Board should contact Howard F. Flippin, O.D., Executive Director, 501-268-4351. Individuals desiring a copy of the proposed Chapter IX, Article I, as referred to herein, may contact Howard F. Flippin, O.D., Executive Director, at the above number DRST-324.3/31.4/7/20

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