

ARKANSAS REGISTER

Transmittal Sheet

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



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For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Health

Department Division of Health and Related Boards and Commissions—State Board of Physical Therapy

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Statutory Authority for Promulgating Rules 17-93-202

Rule Title: State Board of Physical Therapy

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

Nancy Worthen

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06/21/2021

Contact Person

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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.)

Nancy Worthen
Signature

501-501-228-7100

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Executive Director

Title

06/21/2021

Date

**ARKANSAS STATE BOARD OF PHYSICAL THERAPY
RULES**

I. Officers and Meetings

A. Officers shall:

1. Consist of a chairperson and a secretary/treasurer, each of whom shall have the privilege of re-election.
2. Officers shall be elected annually in July, unless otherwise determined by the Board.

B. Duties of Officers:

1. The chairperson shall:

- a. Call and preside at all meetings. In the absence of the chairperson, he/she shall designate a member to preside.
- b. Be custodian of all records or designate a custodian of all records.
- c. Delegate duties to Board members.
- d. Vote on all issues.

2. The secretary/treasurer shall:

- a. Ensure that accurate minutes of each meeting are kept and distributed to each Board member.
- b. Supervise disbursement of Board funds.

C. The location of the office of the Board shall be designated by the Board.

D. Meetings:

1. Special meetings may be called at the discretion of the chairperson, or by two members of the Board, provided that all members are adequately notified.
2. All meetings shall be conducted pursuant to the Arkansas Freedom of Information Act and disciplinary proceedings shall be conducted in accordance with the Arkansas Administrative Procedures Act.
3. Three (3) members shall constitute a quorum.
4. A majority vote of a quorum carries.

E. Information for Public Guidance:

1. The Board makes available a list of persons holding certain responsibilities for handling FOIA requests, licensing questions, and complaints against licensees so that the public may obtain information about the Board or make submissions or requests. The names, mailing addresses, telephone numbers, and electronic addresses can be obtained from the Board's website at www.arptb.org.
2. The Board has a list of official forms used by the Board and a list of all formal, written statements of policy and written interpretative memoranda, and orders, decisions and opinions resulting from adjudications, which may be obtained from the Board's office or website.

II. Definitions

For purposes of Ark. Code Ann. §§ 17-93-101 et seq. and these Rules, the following terms shall mean:

1. "FSBPT" means The Federation of State Boards of Physical Therapy.
2. "Mobilization" is a passive movement accomplished within the normal range of motion of the joint. It is a manual therapy technique comprising a continuum of skilled passive movements to the joints and/or related soft tissues that are applied at varying speeds and amplitudes, including a small-amplitude/high-velocity therapeutic movement.
3. "Readily available for consultation" is the ability to be reached in person or by telecommunications within 30 minutes.
4. "Spinal manipulation and adjustment" is movement of the spinal joints beyond the normal range of motion.

III. Requirements for Licensure

- A. An individual who plans to practice as a Physical Therapist or Physical Therapist Assistant must secure a license prior to practicing in the state.
- B. Credentials required for application for initial licensure are to be submitted to the Arkansas State Board of Physical Therapy as follows:
 1. The Board shall receive an official transcript transmitted from the Office of the Registrar, or its designee, of a professional physical therapy /physical therapist assistant education program accredited by a national accreditation agency approved by the Board.
 2. The applicant shall submit an official Board application that is completed in full and the contents sworn under oath as being true and correct.

3. Application requirements must be completed and received by the Board before an applicant is approved to take the examination described in Section IV.B., except that, in lieu of the official transcript described in Section III.B.1, an applicant may take the examination if the Board can confirm through FSBPT (or another Board-approved entity) that the applicant has completed all requirements for graduation.
- C. All applicants shall pay the required fees.
 - D. All applicants must pass a jurisprudence exam approved by the Arkansas State Board of Physical Therapy.
 - E. The Board shall require each initial applicant to submit to a background check in accordance with Ark. Code Ann. § 17-93-303 for Physical Therapist applicants or Ark. Code Ann. § 17-93-304 for Physical Therapist Assistant applicants.
 - F. Pre-Licensure Criminal Background Check
 1. 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.
 2. The individual must obtain the pre-licensure criminal background check petition form from the Board.
 3. The Board will respond with a decision in writing to a completed petition within a reasonable time.
 4. The Board's response will state the reason(s) for the decision.
 5. All decisions of the Board in response to the petition will be determined by the information provided by the individual.
 6. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
 7. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.
 - G. Waiver Request
 1. If an individual has been convicted of a felony offense, except those permanently disqualifying offenses found A.C.A. § 17-3-102(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:
 - a. An affected applicant for a license; or
 - b. An individual holding a license subject to revocation.
 2. The Board may grant a waiver upon consideration of the following, without limitation:

- a. The age at which the offense was committed;
 - b. The circumstances surrounding the offense;
 - c. The length of time since the offense was committed;
 - d. Subsequent work history since the offense was committed;
 - e. Employment references since the offense was committed;
 - f. Character references since the offense was committed;
 - g. Relevance of the offense to the occupational license; and
 - h. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
3. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
 4. The Board will respond with a decision in writing and will state the reasons for the decision.
 5. An appeal of a determination under this section will be subject to the Administrative Procedures Act §25-15-201 *et seq.*

IV. Methods of Licensure

A. Licensure by Reciprocity

1. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:
 - a. The applicant shall hold a substantially similar license in another United States' jurisdiction.
 - i. A license from another state is substantially similar to an Arkansas Physical Therapy / Physical Therapy Assistant license if the other state's licensure qualifications require a licensee to graduate from a Physical Therapy /Physical Therapist Assistant education program accredited by a national accreditation agency approved by the Board.
 - ii. The applicant shall hold his or her occupational licensure in good standing;
 - iii. The applicant shall not have had a license revoked for:
 1. An act of bad faith; or
 2. A violation of law, rule, or ethics;
 - iv. The applicant shall not hold a suspended or probationary license in a United States' jurisdiction;
 - b. The applicant shall be sufficiently competent in the field of physical therapy as described in Section IV.A.2.c.; and
 - c. The applicant shall meet the Board's least restrictive requirements, which are described in Section IV.A.2.d.

2. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
 - a. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:
 - i. Evidence of current and active licensure in that 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 or from FSBPT (or another Board-approved entity); and
 - ii. Evidence that the other state's licensure requirements match those listed in IV.A.1.a.i. The Board may verify this information online or by telephone to the other state's licensing board or from FSBPT (or another Board-approved entity).
 - b. To demonstrate that the applicant meets the requirement in IV.A.1.a.ii. through iv., the applicant shall provide the Board with:
 - i. The names of all states in which the applicant is currently licensed or has been previously licensed;
 - ii. 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 in IV.A.1.a.iii. and does not hold a license on suspended or probationary status as described in IV.A.1.a.iv. 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.
 - c. As evidence that the applicant is sufficiently competent in the field of physical therapy, an applicant shall provide the Board with evidence from FSBPT (or another Board-approved entity) that a physical therapy applicant has passed the National Physical Therapy Examination ("NPTE") or that a Physical Therapist Assistant applicant has passed the NPTE-PTA.
 - d. As evidence that the applicant meets the Board's least restrictive requirements, an applicant shall:
 - i. Take and pass an Arkansas jurisprudence exam; and
 - ii. Submit to a background check in accordance with Ark. Code Ann. § 17-93-303 for Physical Therapist applicants or Ark. Code Ann. § 17-93-304 for Physical Therapist Assistant applicants.
3. Temporary and Provisional License
 - a. The Board shall issue a temporary and provisional license upon request immediately upon receipt of the required fee and the documentation required to show that the applicant has a license from another jurisdiction

that is in good standing and is substantially similar to an Arkansas Physical Therapy / Physical Therapist Assistant license.

- b. An applicant shall submit a completed application with all required remaining documentation in order to receive a license.
- c. The temporary license shall be effective for 90 days or until the Board makes a decision on the application, whichever occurs first.

B. Licensure by Examination

1. Applicants who comply with qualifications in accordance with the Arkansas Physical Therapy Practice Act shall be permitted to sit for examination.
2. Form of Examination
 - a. The Board selects and approves the National Physical Therapy Examination ("NPTE") for Arkansas Physical Therapist applicants and the NPTE-PTA for Arkansas Physical Therapist Assistant applicants.
 - b. The examination will be administered by Prometric or another Board-approved examination administrator. Written guidelines and procedures will be provided at time of application.
 - c. The examination must be completed by the date provided by FSBPT (or another Board-approved entity) or a portion of the fee will be forfeited.
3. Passing Level
 - a. For each examination given on or after March, 1996, a passing score will be established by FSPBT.
4. Scoring and Reporting of Examinations
 - a. Results of the examinations will be kept on file by the Board.
 - b. Examination scores will be reported directly to each candidate by the Board.
5. Failure to Pass Examination
 - a. A candidate who fails to pass the examination will be notified. The candidate is ineligible for a license in Arkansas as a Physical Therapist or a Physical Therapist Assistant until the examination is passed.
 - b. Upon payment of an appropriate fee, applicants who do not pass the examination after the first attempt may re-take the examination one (1) additional time without re-application for licensure. This must occur within six (6) months from the first failure.

- c. Prior to being approved by the Board for each subsequent test beyond two (2) attempts, individuals shall re-apply and demonstrate evidence satisfactory to the Board of having successfully completed additional education. Additional education may be one or more of the following:
 - 1. A commercial review course.
 - 2. An individual tutorial. The completed tutorial must be signed by the tutor and include the tutor's curriculum vitae. If the applicant is applying for a PT license, the tutor must be a licensed PT. If the applicant is applying for a PTA license, the tutor must be a licensed PT, or a licensed PTA.
 - d. An applicant may not sit for the exam more than six (6) times without approval from both the Board and FSBPT (or another Board-approved entity).
- C. Licensure for Active Duty Service Members, Returning Military Veterans, and Spouses
- 1. As used in this rule:
 - a. "Automatic 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 this rule;
 - b. "Returning military veteran" means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.
 - 2. The Board shall grant expedited licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:
 - a. An active duty military service member stationed in the State of Arkansas;
 - b. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or
 - c. The spouse of a person under C.2. i. or ii. above.
 - 3. The Board shall grant such expedited licensure upon receipt of all the below:
 - a. Payment of the initial licensure fee;
 - b. Evidence that the individual holds a substantially equivalent license in another state;
 - c. Evidence that the applicant is a qualified applicant under Section B; and
 - d. Results of a background check in accordance with Ark. Code Ann. § 17-93-303 for Physical Therapist applicants or Ark. Code Ann. § 17-93-304 for Physical Therapist Assistant applicants, if the background check does not reveal a felony conviction.
- D. Licensure under Physical Therapy Licensure Compact

Any person who desires to exercise the privilege to practice under the Physical Therapy Licensure Compact must complete the terms and provisions of the compact as prescribed in Ark. Code Ann. § 17-93-501, et seq.

V. Foreign-educated Physical Therapists & Physical Therapist Assistants

- A. The foreign-educated Physical Therapist or Physical Therapist Assistant is required to be eligible for licensure or authorized to practice without limitation in their home country. The applicant must provide written proof that the applicant's school of physical therapy is recognized by its own ministry of education or equivalent agency.
- B. Any foreign-educated Physical Therapist or Physical Therapist Assistant who plans to practice in Arkansas shall submit all credentials set forth in Section III of these rules.
- C. The foreign-educated Physical Therapist or Physical Therapist Assistant must also submit the following:
 - 1. Credentials evaluation statement from a credentials evaluation agency approved by the Board.
 - 2. Results from an English proficiency examination if the applicant's native language is not English. Both the examination and acceptable score on examination must be approved by the Board. The test must include both written and oral sections.

VI. Renewals and Reinstatement

- A. Licenses must be renewed annually by March 1. Physical Therapists and Physical Therapist Assistants who have not paid annual renewal fees by March 1 are in violation of the Practice Act and shall not engage in practice. Practice without a valid license is subject to a fine of up to \$1,000 per day.
- B. It is the responsibility of the individual to notify the Board of an address change in writing. The licensee is required to provide written notice to the Board of any change of address within ten working days of the change.
- C. Unrenewed licenses lapse after March 1. To return to regular status, the previous year's continuing education requirements must be met and a late fee and annual renewal fee must be paid.
- D. Individuals wishing to be placed on inactive status must submit a written request to the Board. To return to regular status, an individual must pay a reinstatement fee, an annual renewal fee, and complete continuing education as described below.

1. A Physical Therapist or Physical Therapist Assistant on inactive status may not engage in the provision of physical therapy services.
 2. To return to active status, the applicant must demonstrate completion of continuing education requirements that were missed during the period that the person was inactive, up to a maximum of four (4) units (40 contact hours) for a Physical Therapist and two (2) units (20 contact hours) for a Physical Therapist Assistant.
- E. Physical Therapists and Physical Therapist Assistants will be required to complete appropriate continuing education, which includes passing a jurisprudence examination approved by the Arkansas State Board of Physical Therapy for renewal in odd numbered years.
- F. Reinstatement under Ark. Code Ann § 17-1-107.
1. Pursuant to Ark. Code Ann. 17-1-107, as amended, the Board shall not require a person who meets licensing requirements to participate in the education or training required as a prerequisite to licensing registration or certification of a new professional in the field.
 2. The Board may reinstate the license of a person who demonstrates that:
 - i. 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;
 - ii. Held his or her license in good standing at the time of licensing;
 - iii. Did not have his or her license revoked for:
 - a. An act of bad faith;
 - b. A violation of law, rule, or ethic;
 - iv. Is not holding a suspended or probationary license in any state; and
 - v. Is sufficiently competent in his or her field;
 - vi. He or she has completed continuing education requirements that were missed during the period that the person was inactive, up to a maximum of four (4) units (40 contact hours) for a Physical Therapist and two (2) units (20 contact hours) for a Physical Therapist Assistant; and
 - vii. Pays any reinstatement fee required.
 3. A person shall not be required to comply with requirements to obtain reinstatement of his or her license if the person meets the requirements for reciprocity.
 4. If a criminal background check is required of a person currently holding a license, registration, or certification, then the 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.

VII. Fees

The fees for various services of the Board are as follows:

A. Physical Therapists:

Application Fee - \$50.00
Endorsement (Reciprocity) - \$100.00
Annual Renewals - \$70.00
Late Fee - \$100
Jurisprudence Examination Fee - \$10.00
Reinstatement Fee - \$75

B. Physical Therapist Assistants:

Application Fee - \$50.00
Endorsement (Reciprocity) - \$100.00
Annual Renewals - \$45.00
Late Fee - \$100
Jurisprudence Examination Fee - \$10.00
Reinstatement Fee - \$50

C. Miscellaneous Fees and Penalties:

Continuing Education Approval Fee for Sponsors - \$100.00
Continuing Education Approval Fee for Licensees - \$20.00
Penalty for Late Continuing Education - \$50.00 per month
Compact Privilege - \$50

VIII. Disciplinary Action

A. The Board may refuse to license, refuse to renew a license, revoke a license, and/or take other disciplinary action as provided by law regarding any Physical Therapist or Physical Therapist Assistant who is guilty of a felony or any of the acts as set forth in Ark. Code Ann. § 17-93-308. "Unprofessional conduct" pursuant to Ark. Code Ann. Section 17-93-308(a)(3) shall include but not be limited to the following:

1. Engaging in any type of sexual conduct of a verbal or physical nature or engaging in a sexual/romantic relationship, including, but not limited to kissing, sexual contact, and sexual intercourse, with a current patient or with any person who was treated as a patient within the preceding six months. A patient's consent to, initiation of, or participation in the sexual contact or sexual/romantic relationship does not change the nature of the conduct nor the prohibition. This provision shall not prohibit a Physical Therapist or Physical Therapist Assistant from treating any person with whom there has been a preexisting sexual or romantic relationship.

2. Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.
 3. Failing to adhere to the recognized standards of ethics of the physical therapy profession.
 4. Charging unreasonable or fraudulent fees for services performed or not performed.
 5. Failing to report to the Board any act or omission of a license holder, applicant or any other person who violates the provisions of the Arkansas Physical Therapy Act, as amended.
- B. Each facility offering physical therapy services shall be required to publicly display the name and contact information of the Arkansas State Board of Physical Therapy.
- C. Any person may file a complaint in writing to the Board against any licensed Physical Therapist or Physical Therapist Assistant or unlicensed person in this state, charging said person with having violated the provisions of any part of the Arkansas Physical Therapy Practice Act. The Board may act upon its own motion or upon written complaint. The person named in the complaint will be notified and a response from that individual will be requested.
- D. Re-Licensure for Revoked or Surrendered License
1. No individual who has had his or her license revoked or who has surrendered his or her license while under investigation by the Board will be re-licensed, except on petition made to the Board. The application for re-licensure is not allowed until at least five years after the revocation or surrender of license while under investigation took effect.
 2. Following license revocation or surrender of licensure while under investigation, the applicant bears the burden of proving that he or she is rehabilitated, can engage in the conduct authorized by the license without undue risk to the public health, safety, and welfare, and is otherwise qualified for the license pursuant to Ark. Code Ann. §§ 17-93-101 et seq.
 3. The Board may impose any appropriate conditions or limitations on a license to protect the public health, safety, and welfare.
 4. The Board may require that the person seeking re-licensure take the licensing examination and/or jurisprudence examination.

IX. Physical Therapist Assistant Supervision

- A. The practice of the Physical Therapist Assistant shall be performed only under the supervision of the licensed Physical Therapist who retains moral, ethical, and legal responsibility for patient care.
- B. The supervising therapist must be readily available for consultation, evaluations, and establishment of each program.
- C. In direct consultation with the (supervising) Physical Therapist, the Physical Therapist Assistant may:
 - 1. Recommend changes in the treatment, plan of care or goals as appropriate.
 - 2. Within the plan of care, recommend appropriate equipment, assistive devices or modification of architectural barriers.
 - 3. Within the plan of care, perform appropriate examination procedures.
- D. The Physical Therapist Assistant may alter treatment in response to adverse changes in the patient's physiological state.

X. Physical Therapy Aide Functions

- A. The functions of the Physical Therapy Aide may be performed under the direct supervision of a Physical Therapist or Physical Therapist Assistant. However, the Physical Therapist shall retain moral, ethical and legal responsibility for patient care.
- B. A Physical Therapy Aide must receive inservice training by a Physical Therapist or Physical Therapist Assistant. Once the aide is trained in treatments which can be completed within the realm of inservice as determined by a Physical Therapist, he/she may perform treatments only under direct supervision by a Physical Therapist and/or Physical Therapist Assistant.
- C. The Physical Therapy Aide may not:
 - 1. change any treatment;
 - 2. perform evaluative and assessment procedures;
 - 3. alter a plan of care or goals.

XI. Continuing Education Requirements

- A. The licensed Physical Therapist must complete, by December 31, in each biennium, two (2) CEUs. CEUs are required to be submitted prior to odd numbered year renewals.

B. The licensed Physical Therapist Assistant must complete, by December 31, in each biennium, one (1) CEU. CEUs are required to be submitted prior to odd numbered year renewals.

C. Qualifying Continuing Education Units

1. One CEU is defined as 10 contact hours of an accredited course or program. A contact hour is equal to 60 minutes of in-person attendance at a seminar or workshop. Program content must be of clinical application, clinical management, behavioral science, or science.

A. No more than 50% of continuing education can be taken through online courses.

B. Physical Therapists and Physical Therapist Assistants will be required to pass a jurisprudence exam approved by the Board as part of the required continuing education. The jurisprudence examination is counted as an online course.

C. Webinars that are both live and interactive are considered to be in-person attendance.

2. Program content and CEUs accreditation must be approved by the Board or a Board-approved entity. Proof of continuing education and a completed "Continuing Education Units" form must be submitted to the Board for approval of a program for CEUs and should be submitted within 60 days after course completion. Proof of CEUs may be copies of the original completion certificate. Proof of college courses completed for CEUs is a transcript or grade report.

3. College or university courses in the area of clinical application, clinical management, behavioral science, science, or scientific research may be accepted. Courses will be credited one (1) CEU for each satisfactorily completed credit hour (grade C or higher). A "Continuing Education Units" form and a transcript or grade report must be submitted to the Board office.

4. A licensee who has written an article or research that has been published may submit such work to the Board for consideration of up to one-half the biennium CEU requirement. This request, along with the publication, must be presented to the Board office for Board approval.

5. The Board will not accept as qualifying CEUs previously submitted credit hours.

D. Failure to Comply

Licensees failing to complete the CEU requirement by December 31 of the year prior to renewal must pay \$50.00 per month penalty until continuing education is completed and accepted by the Board. Licensees failing to comply with the CEU requirement by license renewal deadline will not receive

license renewal and shall not engage in the provision of physical therapy services.

XII. Declaratory Orders

A. Purpose and Use of Declaratory Orders

A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from the Board. A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

B. The Petition

The process to obtain a declaratory order is begun by filing with the Arkansas State Board of Physical Therapy a petition that provides the following information:

1. The caption shall read: Petition for Declaratory Order Before the Arkansas State Board of Physical Therapy.
2. The name, address, telephone number, and email address of the petitioner.
3. The name, address, telephone number, and email address of the attorney of the petitioner, if the petitioner has an attorney.
4. The statutory provision(s), Board rule(s), or Board order(s) on which the declaratory order is sought.
5. A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue or which petitioner seeks a declaratory order.
6. The signature of the petitioner or petitioner's attorney.
7. The date.
8. Request for hearing, if desired.

C. Board Disposition

1. The Board may hold a hearing to consider a petition for declaratory statement. If a hearing is held, it shall be conducted in accordance with the Administrative Procedure Act, A.C.A. §§ 25-15-201 et seq.

2. The Board may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within ninety (90) days of the filing of the petition, the Board will render a final order denying the petition or issuing a declaratory order.

XIII. Amendments to these rules may be proposed by presenting the amendments in writing at any meeting of the Board. If the proposed amendment receives a majority vote of the Board, then the procedures for adoption outlined in the Administrative Procedures Act shall be followed.