

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
500 Woodlane Street, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



Name of Department Arkansas Department of Health

Agency or Division Name ADH Division of Health Related Board and Commission

Other Subdivision or Department, If Applicable Arkansas State Board of Chiropractic Examiners

Previous Agency Name, If Applicable _____

Contact Person Laurie Mayhan

Contact E-mail asbce@arkansas.gov

Contact Phone 501-682-9015

Name of Rule Pre-Licensure Criminal Background check waiver request

Newspaper Name Arkansas Democrat-Gazette

Date of Publishing January 30, 2022, January 31, 2022 & February 1, 2022

Final Date for Public Comment March 1, 2022

Location and Time of Public Meeting 101 E. Captiol Ave. and/or Zoom, April 14, 2022

MARKUP

Act 748 – Pre-Licensure Criminal Background Check Waiver Request

Ark. Admin. Code 007.33.8-2 (Formerly cited as AR ADC 029.00.2)

PART 2. RULES

A. APPLICATIONS FOR STATE BOARD EXAMINATIONS AND LICENSURE.

7. Pre-Licensure Criminal Background Check Waiver Request

A. If an individual has been convicted of an offense listed in A.C.A. § 17-~~2~~³-102(a) ~~or (e), 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.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health
DIVISION Health Related Boards and Commissions / Arkansas State Board of Chiropractic Examiners
PERSON COMPLETING THIS STATEMENT Laurie Mayhan, Director of Arkansas State Board of Chiropractic Examiners
TELEPHONE NO. (501) 682-9015 **FAX NO.** (501) 682-9016 **EMAIL:** asbce@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Pre-Licensure Criminal Background check waiver request

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

- b) The reason for adoption of the more costly rule;

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

- d) Whether the reason is within the scope of the agency’s statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total \$ 0.00 _____

Total \$ 0.00 _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total \$ 0.00 _____

Total \$ 0.00 _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00 _____

\$ 0.00 _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00 _____

\$ 0.00 _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Notice of Rulemaking

The Arkansas State Board of Chiropractic Examiners hereby issue the following proposed amendments to its Rules pursuant to its authority under Ark. Code Ann. §§ 17-81-101 et. seq.

Pursuant to Acts 135, 390, 589, 725, 746, and 748 of the 93rd General Assembly Regular Session (2021), the Rules of the Arkansas State Board of Chiropractic Examiners are being updated to amend rules concerning animal chiropractic, licensure for military veterans, advertising by chiropractic physicians, application for state board examination and licensure, and pre-licensure criminal background check waiver request.

These proposed amendments are available for review at the Arkansas State Board of Chiropractic Examiners office, 101 East Capitol Ave., Suite 209, Little Rock, AR 72201. You may also access them on the Arkansas State Board of Chiropractic Examiners website at <https://www.arkansas.gov/asbce>. All public comments should be addressed, in writing, to Director, Arkansas State Board of Chiropractic Examiners, 101 East Capitol Ave., Suite 209, Little Rock, AR 72201, or by email to asbce@arkansas.gov and should be received no later than March 1, 2022.



Arkansas Department of Health

Arkansas State Board of Chiropractic Examiners
101 E. Capitol, Suite 209 • Little Rock, Arkansas 72201 • (501) 682-9015 • Fax: (501) 682-9016
Governor Asa Hutchinson
José Romero, MD, Secretary of Health
Laurie Mayhan, Director

Proposed Rule Regarding Pre-Licensure Criminal Background Check Waiver Request

PURPOSE

The Arkansas State Board of Chiropractic is seeking to amend its rule regarding Pre-Licensure Criminal Background Check Waiver Requests. Amendment is according to Act 748 of 2021.

BACKGROUND

Pursuant to ACA §17-81-101, the Board has authority to promulgate rules necessary to carry out the functions of the Board. Several pieces of legislation were enacted in the 2021 General Session that affected the Board's administrative functions and/or licensure requirements that would require amendments to current rules. The ASBCE Board, Board Director, and legal counsel prepared the attached rule amendments as a result of this legislation. The Board approved these proposed amendments at their November 4, 2021 and December 9, 2021 board meetings.

KEY POINTS

The proposed amendments contain the following changes:

- Makes correct to state number referenced
- Removes the language, "except those permanently disqualifying offenses found in subsection e," from the current rule.

DISCUSSION

These rule changes use model language prepared by the Attorney General's office to comply with legislative changes that affect multiple boards.

RECOMMENDATION

We recommend that the proposed amendments to the Board's Rule be approved as proposed by the Board.

Thank you for your time and attention.

Sincerely,

Laurie Mayhan
Director

Arkansas Department of Health
Board of Chiropractic Examiners
101 East Capitol Avenue, Suite 209
Little Rock, AR 72201
Office: (501) 682-9015
asbce@arkansas.gov