

# 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](http://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 \_\_\_\_\_



**REQUEST FOR GOVERNOR'S APPROVAL OF PROPOSED RULES**

Please submit this form and all required documents in the checklist as a single pdf document. Failure to comply will result in the rule being denied.

Rules identified as mandatory promulgations in Form 2021A must be submitted to the Governor's Office for approval no later than December 31, 2021.

**Cabinet Department:** Arkansas Department of Health

**Division/Commission/Board/Agency:** ADH Division of Health Related Boards and Commissions - Board of Podiatric Medicine

**Rule Number:** 1 **Short Title of Rule:** Rules for ADH Board of Podiatric Medicine

**New Rule:**  Yes  No **Rule Amendment:**  Yes  No **Rule Repeal:**  Yes  No

**Proposed Effective Date:** 2/1/21 **Date Rule Submitted:** 12/15/21

**Emergency Rule:**  Yes  No **Expedited Request:**  Yes  No **Reason:** \_\_\_\_\_

**Drafted in Code of Rules Format**  Yes  No **If not, explain:** Rules have not been recodified in Code of Rules Format

**Please explain the need for an Emergency/Expedited Rule:** N/A

**AUTHORITY TO PROMULGATE**

**State Mandate:**  Yes  No **Federal Mandate:**  Yes  No **Act No.:** Acts 135, 725, 746 and 748 of 2021

**Statutory Authority to Promulgate the Rule:** ACA 17-96-202(a)(3)A & B

**Department/Agency Legislation from Legislative Session:**  Yes  No **Act No.:** N/A

**House Sponsor:** Lynch, Ray, Penzo, Cozart **Senate Sponsor:** Hill, Gilmore, Hester,

**Cabinet Review:**  Yes  No **Secretary's Signature:** Jose R. Roman **Date:** 12/21/21

**RULE SUMMARY**

**Purpose of Rule:** \_\_\_ To Establish procedures and enforcement provisions for those licensed by this Board.

---

**Reason for Creating or Amending the Rule:** \_These amendments are necessary to clarify and update procedures for licensees and to comply with Acts 135 of 2021, 725 of 2021, 746 of 2021 and 748 of the 2021 General Assembly.

**How does the Rule deviate from the Act:** \_\_No deviation

---

**Rule Based on a Rule From Different Jurisdictions:**  Yes  No **Jurisdictions:** \_\_\_\_\_

---

**Short Summary of New Rule or Rule Changes:** (explain in greater detail in your executive summary)

These rules contain revisions to be compliant with Acts from the 2021 General Assembly: military licensure for uniformed service members, work permit holders, initial fee waivers, and references to “permanently disqualifying offenses. \_\_\_\_\_

**Applicable Federal Regulations:**  Yes  No **C.F.R. No:** \_\_\_\_\_

**Proposed Rule the Least Restrictive Alternative:**  Yes  No. **If not, why?** \_\_\_\_\_

---

**Does it Mirror Federal Regulations or Impose Additional Requirements:**  Yes  No

**Explain:**

\_\_\_\_N/A\_\_\_\_\_

**Note: In addition to these explanations, the Department/Agency seeking to promulgate this rule shall submit the attached executive summary. Failure to include the summary will result in the rule being denied.**

---





# Arkansas Department of Health

---

Arkansas Board of Podiatric Medicine  
4815 West Markham Street, Slot 1 • Little Rock, Arkansas 72205-3867 • arpodiatryboard@gmail.com  
**Governor Asa Hutchinson**  
**José Romero, MD, Secretary of Health**  
**John Robinette, DPM, Board President**

## Proposed Amendments to the ADH State Board of Podiatric Medicine

### PURPOSE

The Arkansas Department of Health is seeking Governor Hutchinson's review of proposed amendments to the Board of Podiatric Medicine Rule promulgated by the Board.

### BACKGROUND

Pursuant to ACA 17-96-202(a)(3)A & B the Board has authority to promulgate rules necessary to carry out the functions of the Board. Several pieces of legislation were enacted in the previous session that affected the Board's administrative functions and amendments to the rules would be required. The Board and legal counsel prepared attached amendments as a result of this legislation. The Board approved these proposed amendments at their November 15, 2021 meeting.

### KEY POINTS

The proposed amendments contain the following changes:

- Adds language regarding fee waiver for eligible individuals listed in the Act 725 of 2021 (Attorney General's office model language).
- Language update, licensure extension, and continuing education requirement waiver language updated/added per Act 135 of 2021 (Attorney General's office model language).
- Removes reference to "permanently disqualifying offenses" per Act 748 of 2021 (Attorney General's office model language).

- Explicitly states licensure eligibility for individuals who hold work permits per Act 746 of 2021 (Attorney General's office model language).

### DISCUSSION

The 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 rules be approved as proposed by the Board.

**ARKANSAS  
BOARD  
OF PODIATRIC  
MEDICINE  
RULES**

## **ARTICLE I. APPLICATION FOR LICENSURE, RECIPROCITY, AND RENEWAL**

### **1. Application for Licensure**

- (A) Official application forms are available on the Board's website. No application for licensure will be considered unless fully and completely filled out on this form.
- (B) An applicant must have official documentation sent to the Secretary of the Board from the National Board of Podiatric Medical Examiners that a passing score was achieved by the applicant on the American Podiatric Medical Licensing Examination (APMLE) Part I and Part II, or successor exam, of the National Board Examination.
- (C) An applicant may take the state licensing examination or submit official documentation from the National Board of Podiatric Medical Examiners of a passing score on the Part III Examination (or successor exam).
- (D) No applicant will be admitted to the state examination except on presentation of a valid driver's license or other form of government-issued photo identification.
- (E) Applications should be sent to the address provided on the Board's website.
- (F) An application fee of \$200 shall accompany the application. The fee shall be sent in form of cashier's check, personal check or money order.
- (G) The applicant will furnish with the application transcripts under seal of the college or colleges of podiatric medicine attended.
- (H) If an applicant wishes to take the state examination, an application shall be completed and filed with the Board's secretary-treasurer at least two months prior to the state Board examination, unless otherwise provided by law.
- (I) The application is subject to Arkansas law at the time of consideration of the application by the Arkansas Board of Podiatric Medicine.



11-15-21 markup

(J) The state examination shall be conducted in English.

(K) All state examinations shall be conducted in the presence of at least one member of the Board.

(L) If an applicant fails to pass the state examination, the applicant may appear before the Board for not more than two examinations, both of which must be taken within a period of six months from the date the applicant's license application is denied for failure to pass the exam.

(M) The Board shall grant a license to an applicant who fulfills the Arkansas requirements for licensure 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."

2. Reinstatement

An applicant who can demonstrate that he meets the following criteria may have his license reinstated upon payment of the application fee:

- (A) Was previously licensed as a podiatrist at any time in this state;
- (B) Held his or her license in good standing at the time of licensing;
- (C) Did not have his or her 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 license in any state; and
- (E) Furnish evidence of completion of the number of hours of acceptable continuing medical education computed by multiplying twenty (20) times the number of years the licensee has held an inactive or invalid license, not to exceed 100 hours.

3. Reciprocity

- (A) Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:
  - (i) The applicant shall hold in good standing a substantially similar license in another U.S. jurisdiction.
    - (a) A podiatric medical license from another state is substantially similar to an Arkansas podiatric medical

license if an applicant has, or the other state's licensure qualifications require an applicant to have:

- (1) Graduated from a legally incorporated, regularly established school of podiatric medicine recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association; and
  - (2) Completed the residency described in Ark. Code Ann. 17-96-303(d)(2).
- (b) 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;
- (c) The applicant shall not hold a suspended or probationary license in a U.S. jurisdiction; and
- (ii) The applicant shall be sufficiently competent in the field of podiatric medicine.
- (B) Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
- (i) As evidence that the applicant's podiatric medical license from another jurisdiction is in good standing and is substantially similar to an Arkansas podiatric medical license, the applicant shall submit the following information:
    - (a) Evidence of current licensure in good standing in that state. The Board may verify this information online or by telephone; and
    - (b) A certificate of graduation from a legally incorporated, regularly established school of podiatric medicine recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association; and
    - (c) A certificate issued by an accredited podiatric residency program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association as proof of the satisfactory completion of the residency described in Ark. Code Ann. 17-96-303(d)(2); and
  - (ii) To demonstrate that the applicant has not had a license revoked for bad faith or a violation of law, rule, or ethics, as

required by Article I., section 3.(A)(i)(b), and that the applicant does not hold a license on suspended or probationary status, as required by Article I., section 3.(A)(i)(c), 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; and
  - (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's license has not been revoked for the reasons listed in Article I., section 3.(A)(i)(b), and is not on suspended or probationary status as described in Article I., section 3.(A)(i)(c). The Board may verify information online or by telephone.
- (iii) As evidence that the applicant is sufficiently competent in podiatric medicine, an applicant shall:
- (a) Submit official documentation from the National Board of Podiatric Medical Examiners of a passing score on the American Podiatric Medical Licensing Examination (APMLE) Part I and Part II (or successor exams); and either
  - (b) Pass the Arkansas state licensing examination; or
  - (c) Submit official documentation of a passing score on the PMLexis/ Part III Examination (or successor exam).

## **ARTICLE II. PROVISIONAL LICENSE**

1. The Board shall issue a provisional license immediately upon receipt of the required fee and the documentation required under Article I., section 3.(B)(i) to show that the applicant has a license from another jurisdiction that is in good standing and is substantially similar to an Arkansas podiatric physician license.
2. An applicant shall submit a completed application with all required remaining documentation in order to receive a license.
3. The provisional license shall be effective for 90 days or, if the complete application and remaining documentation are submitted, until the Board

makes a decision on the application.

## **ARTICLE III. COMPLAINTS AND DISCIPLINARY ACTION**

1. In accordance with Ark. Code Ann. §§ 17-96-308 and 25-15-217, the Board may revoke, suspend, refuse to renew, or otherwise penalize the license of a podiatric physician after notice and hearing for any one or more of the following causes:

- (A) Is convicted of a crime listed under Ark. Code Ann. § 17-3-102;
- (B) Failure to display in the primary office the current certificates of registration;
- (C) Unprofessional and dishonest conduct, including but not limited to:
  - (i) Aiding and abetting an unlicensed person to practice Podiatric Medicine;
  - (ii) Violation of Ark. Code Ann. §§ 17-96-101, et seq; and
  - (iii) Violation of any statute, rule, or order of the Arkansas Board of Podiatric Medicine;
- (D) Habitual, intemperate, or excessive use of narcotics or any other habit-forming drugs;
- (E) Incompetent to practice medicine to such an extent as to endanger the public;
- (F) Insanity or mental disease if evidenced by adjudication or by an involuntary commitment to an institution for treatment of a mental disease or as determined by an examination conducted by three impartial psychiatrists;
- (G) Submitting false, deceptive or unfounded claims, reports or opinions to any patient or payor;
- (H) Gross, willful and continued overcharging for professional services;
- (I) Failure to report to the Board any disciplinary action, suspension or loss of privileges by a hospital, outpatient treatment or surgical facility within 30 days of such action; and

- (J) Failure to check the check the information in the Prescription Drug Monitoring Program when prescribing controlled substances, as required by the Prescription Drug Monitoring Program Act, Ark. Code Ann. §§ 20-7-601 et seq.
2. Any person may file a complaint with the Board against any licensed podiatric physician or unlicensed person that charges said person with having violated the Board's statutes or rules.
  3. Complaints must be submitted to the Board in written form.
  4. The Board may designate an individual to conduct investigations of written complaints.
  5. Nothing in these rules shall prohibit informal disposition of complaints or allegations by agreement of parties
  6. All hearings shall be conducted in accordance with the Administrative Procedure Act, Ark. Code Ann. §§ 25-15-201 et seq.

## ARTICLE IV. OFFICERS OF THE ARKANSAS BOARD OF PODIATRIC MEDICINE AND THEIR DUTIES

1. The officers of the Arkansas Board of Podiatric Medicine shall consist of a President and a Secretary-Treasurer. They shall be elected annually by the members of the Board and shall serve a term of one year, or until their successors are elected and qualified.
2. **President.** The president shall be the chief executive officer of the Board and shall preside at all of its meetings. The president shall sign all licenses and perform such other duties as may pertain to the office. The president shall approve all requests for the expenditure of funds of the Board, and shall have power to vote on all questions coming before the Board.
3. **Secretary-Treasurer.** The following described duties of the Secretary-Treasurer may be delegated to Board staff. The Secretary-Treasurer shall be in charge of the books, records, property, and money of the Arkansas Board of

Podiatric Medicine. The Secretary-Treasurer shall conduct the Board's correspondence, keep a complete and accurate record of the business transactions at all meetings and of all fees received and expenses paid under these rules and shall report the same to the Arkansas Board of Podiatric Medicine annually. The Secretary-Treasurer shall also have the following duties and responsibilities:

- (A) The Secretary-Treasurer shall keep a complete record listing the names and addresses of all persons to whom licenses have been granted with the number, and the date of issuance of each license.
- (B) The Secretary-Treasurer shall collect all fees and renewals, and deposit to the account of the Arkansas Board of Podiatric Medicine all money received not later than the first day of the calendar month following receipt of the money.
- (C) The Secretary-Treasurer shall keep a full and complete record of all forfeited, revoked and expired licenses, and shall countersign all newly issued licenses.
- (D) The Secretary-Treasurer shall receive and submit to the Board for approval all applications for licensure and shall further be required to keep a full and complete record thereof.
- (E) The Secretary-Treasurer shall notify the members of the Board of the dates and places of all regular and special meetings of said Board, and shall notify applicants for licensure of the date and place of examination.
- (F) Before taking possession of office, the Secretary-Treasurer shall file with the president of the Board such surety bond as may be required by the Board, the expense of which shall be paid by the Board. At the expiration of the term of office the Secretary-Treasurer shall deliver to the successor all books, records, property, and money of the Board.
- (G) The Secretary-Treasurer shall receive and submit to the Board for approval all applications for license and any complaints regarding podiatric physicians that appear to be violations of these rules.
- (H) The Secretary-Treasurer shall not issue any duplicate license number or reassign any number that may become vacant.

4. Other members of the Board may countersign, license, preside over meetings when necessary, and aid in conducting examinations of applicants.

## **ARTICLE V. MEETINGS OF THE ARKANSAS BOARD OF PODIATRIC MEDICINE**

1. The Board shall hold an annual business meeting. Special meetings of the Board may be called by the President, or in the absence or inability of the President to act, by the members of said Board, for the proper and efficient discharge of their duties as required by law.
2. At all meetings of the Board, three members shall be necessary for the transaction of business, and all motions must have two favorable votes in order for them to carry. At examinations only one member need be present to supervise the examination and render such service as may be needed.

## **ARTICLE VI. PODIATRIC PHYSICIAN DELEGATION**

1. Act 472 of the 87th General Assembly of the State of Arkansas, as of the year 2009, authorized Podiatric 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 Podiatric Physician when delegating to employees.
2. Definitions for Purposes of this Article VI.:
  - (A) "Podiatrist" means an individual licensed by the Arkansas Board of Podiatric Medicine as a Podiatric Physician.
  - (B) "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.

(C) "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.

(D) "Supervision" means the act by a Podiatric Physician in directing and overseeing an employee who performs a delegated medical practice.

(E) "Medical Assistant" means an employee of a Podiatric 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.

### 3. General Provisions

(A) The delegating Podiatric 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 Podiatric 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 Podiatric Physician's supervision.

### 4. Procedures for Delegating a Medical Practice

Prior to delegating a medical practice or task, the Podiatric Physician shall determine the following:

(A) That the medical practice or task is within that Podiatric Physician's authority to perform;

(B) That the medical practice or task is indicated for the patient;

(C) The appropriate level of supervision for the Podiatric Physician to exercise while the medical practice or task is being performed;



(D) 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

(E) 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.

5. Additional Requirements for Delegating the Administration of Drugs

(A) A Podiatric 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 Podiatric Physician's offices.

(C) The Podiatric Physician shall evaluate the acuity of the patient and make a determination that delegation is appropriate.

(D) The Podiatric 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.

6. Prohibitions

(A) A Podiatric Physician shall not transfer his or her responsibility for supervising an unlicensed person in the performance of a delegated medical practice, except to another Podiatric Physician who has knowingly accepted that responsibility;

(B) A Podiatric 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 Podiatric Physician shall not delegate to an unlicensed person the administration of anesthesia;

(D) A Podiatric Physician shall not delegate a medical practice that is not within the authority of that physician or is beyond the Podiatric Physician's training, expertise, or normal course of practice; and

(E) A Podiatric Physician shall not delegate a medical practice to an unlicensed person if the practice is beyond that person's competence.

## **ARTICLE VII. Licensure for Active Duty Service Members, Returning Military Veterans, and Spouses**

1. (A) As used in this rule, "~~returning military~~[uniformed service](#) veteran" means a former member of the United States ~~Armed Forces~~[Uniformed Services](#) ~~who was discharged from active duty~~ under circumstances other than dishonorable.

(B) "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.

2. The Board shall grant automatic licensure to an individual who ~~holds a substantially equivalent license in another U.S. jurisdiction and 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:~~

(A) An ~~active-duty military~~[uniformed](#) service member stationed in the State of Arkansas;

(B) ~~A returning military veteran applying for licensure within one (1) year of his or discharge from active duty~~ [A uniformed service veteran who resides in or establishes residency in the State of Arkansas;](#) or

(C) The spouse of:

11-15-21 markup

- (i) ~~a~~A person under Article VII., section 2.(A) or (B);
- (ii) 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
- (iii) 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.

3. The Board shall grant such automatic licensure upon receipt of all of the below:
- (A) Payment of the initial licensure fee;
  - (B) Evidence that the individual holds a substantially equivalent license with a similar scope of practice in another state; and
  - (C) Evidence that the applicant is a qualified applicant under Article VII., section 2.(A), (B), or (C).

4. 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.

5. 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.

## **ARTICLE VIII. CONTINUING MEDICAL EDUCATION**

1. As part of the application for annual license renewal, licensees must submit to the Board proof that they completed twenty hours of approved continuing medical education within the year prior to the license renewal date.
2. A continuing medical education hour shall be considered "approved" if:
- (A) The hour has been approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association;
  - (B) The hour was obtained when attending official meetings presented by any State Podiatric Medical Association;
  - (C) The hour was obtained from meetings approved by the Council on Medical Education of the American Medical Association or approved by the Council on Osteopathic Medical Education of the American

Osteopathic Association as long as the hours pertain to the practice of Podiatric Medicine and

(D) The hour was obtained from hospital lectures, as long as the hour pertains to the practice of Podiatric Medicine.

3. The Board will accept any “approved” hours, as that term is defined in Article VIII., section 2 above, regardless of whether those hours are from meetings, the internet, or periodicals.

4. In addition to the methods of approval for continuing medical education hours provided in Article VIII., section 2 of this Rule, the Board may consider prior approval of meetings. Such prior approval shall be obtained from the Secretary of the Board or, if the Secretary is unavailable to consider hours for approval, a designee of the Board appointed by the President of the Board.

## **ARTICLE IX. PRESCRIBING AND DISPENSING SCHEDULE II NARCOTICS**

1. Unless otherwise stated in this Article IX., terms used shall be defined in accordance with the Prescription Drug Monitoring Program Act, A.C.A. §§ 20-7-601 et seq.

2. Dispensing Schedule II Narcotics.

A podiatric physician shall not dispense Schedule II narcotics.

3. Prescribing Schedule II Narcotics.

(A) 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.

(i) 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  $\geq 50$  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  $\geq 50$  MED 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.

## **ARTICLE X. PRESCRIPTION DRUG MONITORING PROGRAM**

1. A Podiatric Physician shall check the information in the Prescription Drug Monitoring Program when prescribing:
  - (A) An opioid from Schedule II or Schedule III for every time prescribing the medication to a patient; and
  - (B) A benzodiazepine medication for the first time prescribing the medication to a patient.
  
2. This Article X. does not apply to the following:
  - (A) A licensee 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;
  - (B) A healthcare provider prescribing or administering a controlled substance to:
    - (i) A palliative care or hospice patient; or

11-15-21 markup

- (ii) A resident in a licensed nursing home facility; or
  - (iii) Situations in which the Prescription Drug Monitoring Program is not accessible due to technological or electrical failure.
3. A licensee must document in the patient record that the Prescription Drug Monitoring Program was checked.

## ARTICLE XI. FEES

1. The Board shall impose the following fees:

Initial License Fee - \$200

Annual Renewal Fee - \$75

2. Initial Fee Waiver

(A) Pursuant to Act 725 of 2021, an applicant may receive a waiver of the initial licensure fee, if eligible. Eligible applicants are applicants who:

(i) Are receiving assistance through the Arkansas, or current state of residence equivalent, Medicaid Program, the Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (SSNP), the Temporary Assistance for Needy Families Program (TEA), or the Lifeline Assistance Program (LAP);

(ii) Were approved for unemployment within the last twelve (12) months; or

(iii) Have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

(B) Applicants shall provide documentation showing their receipt of benefits from the appropriate State Agency.

(i) For Medicaid, SNAP, SSNP, TEA, or LAP, documentation from the Arkansas Department of Human Services (DHS), or current state of residence equivalent agency;

(ii) For unemployment benefits approval in the last twelve (12) months, the Arkansas Department of Workforce Services, or current state of residence equivalent agency; or

(iii) For proof of income, copies of all United States Internal Revenue Service Forms indicating applicant's total personal income for the most recent tax year e.g., "W2," "1099," etc.

(C) Applicants shall attest that the documentation provided under (b) is a true and correct copy and fraudulent or fraudulently obtained documentation shall be grounds for denial or revocation of license.

## ARTICLE XII. CRIMINAL HISTORY

1. 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 or the Board's designee will respond with a decision in writing to a completed petition within a reasonable time.
  - (D) The Board's response will state the reasons 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.
  
2. Waiver Request
  - (A) If an individual has been convicted of an offense listed in A.C.A. § 17-3-102(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:
    - i. An affected applicant for a license; or
    - ii. An individual holding a license subject to revocation.
  - (B) The Board may grant a waiver upon consideration of the following, without limitation:
    - i. The age at which the offense was committed;
    - ii. The circumstances surrounding the offense;
    - iii. The length of time since the offense was committed;
    - iv. Subsequent work history since the offense was committed;
    - v. Employment references since the offense was committed;
    - vi. Character references since the offense was committed;
    - vii. Relevance of the offense to the occupational license; and



- viii. 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.*

CLEAN COPY

**ARKANSAS**  
**BOARD**  
**OF PODIATRIC**  
**MEDICINE**  
**RULES**

## **ARTICLE I. APPLICATION FOR LICENSURE, RECIPROCITY, AND RENEWAL**

1. Application for Licensure

(A) Official application forms are available on the Board's website. No application for licensure will be considered unless fully and completely filled out on this form.

(B) An applicant must have official documentation sent to the Secretary of the Board from the National Board of Podiatric Medical Examiners that a passing score was achieved by the applicant on the American Podiatric Medical Licensing Examination (APMLE) Part I and Part II, or successor exam, of the National Board Examination.

(C) An applicant may take the state licensing examination or submit official documentation from the National Board of Podiatric Medical Examiners of a passing score on the Part III Examination (or successor exam).

(D) No applicant will be admitted to the state examination except on presentation of a valid driver's license or other form of government-issued photo identification.

(E) Applications should be sent to the address provided on the Board's website.

(F) An application fee of \$200 shall accompany the application. The fee shall be sent in form of cashier's check, personal check or money order.

(G) The applicant will furnish with the application transcripts under seal of the college or colleges of podiatric medicine attended.

(H) If an applicant wishes to take the state examination, an application shall be completed and filed with the Board's secretary-treasurer at least two months prior to the state Board examination, unless otherwise provided by law.

(I) The application is subject to Arkansas law at the time of consideration of the application by the Arkansas Board of Podiatric Medicine.

CLEAN COPY

(J) The state examination shall be conducted in English.

(K) All state examinations shall be conducted in the presence of at least one member of the Board.

(L) If an applicant fails to pass the state examination, the applicant may appear before the Board for not more than two examinations, both of which must be taken within a period of six months from the date the applicant's license application is denied for failure to pass the exam.

(M) The Board shall grant a license to an applicant who fulfills the Arkansas requirements for licensure 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."

2. Reinstatement

An applicant who can demonstrate that he meets the following criteria may have his license reinstated upon payment of the application fee:

(A) Was previously licensed as a podiatrist at any time in this state;

(B) Held his or her license in good standing at the time of licensing;

(C) Did not have his or her 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 license in any state; and

(E) Furnish evidence of completion of the number of hours of acceptable continuing medical education computed by multiplying twenty (20) times the number of years the licensee has held an inactive or invalid license, not to exceed 100 hours.

3. Reciprocity

(A) Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:

(i) The applicant shall hold in good standing a substantially similar license in another U.S. jurisdiction.

(a) A podiatric medical license from another state is substantially similar to an Arkansas podiatric medical

license if an applicant has, or the other state's licensure qualifications require an applicant to have:

- (1) Graduated from a legally incorporated, regularly established school of podiatric medicine recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association; and
  - (2) Completed the residency described in Ark. Code Ann. 17-96-303(d)(2).
- (b) 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;
- (c) The applicant shall not hold a suspended or probationary license in a U.S. jurisdiction; and
- (ii) The applicant shall be sufficiently competent in the field of podiatric medicine.
- (B) Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
- (i) As evidence that the applicant's podiatric medical license from another jurisdiction is in good standing and is substantially similar to an Arkansas podiatric medical license, the applicant shall submit the following information:
    - (a) Evidence of current licensure in good standing in that state. The Board may verify this information online or by telephone; and
    - (b) A certificate of graduation from a legally incorporated, regularly established school of podiatric medicine recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association; and
    - (c) A certificate issued by an accredited podiatric residency program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association as proof of the satisfactory completion of the residency described in Ark. Code Ann. 17-96-303(d)(2); and
  - (ii) To demonstrate that the applicant has not had a license revoked for bad faith or a violation of law, rule, or ethics, as

required by Article I., section 3.(A)(i)(b), and that the applicant does not hold a license on suspended or probationary status, as required by Article I., section 3.(A)(i)(c), 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; and
  - (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's license has not been revoked for the reasons listed in Article I., section 3.(A)(i)(b), and is not on suspended or probationary status as described in Article I., section 3.(A)(i)(c). The Board may verify information online or by telephone.
- (iii) As evidence that the applicant is sufficiently competent in podiatric medicine, an applicant shall:
- (a) Submit official documentation from the National Board of Podiatric Medical Examiners of a passing score on the American Podiatric Medical Licensing Examination (APMLE) Part I and Part II (or successor exams); and either
  - (b) Pass the Arkansas state licensing examination; or
  - (c) Submit official documentation of a passing score on the PMLexis/ Part III Examination (or successor exam).

## **ARTICLE II. PROVISIONAL LICENSE**

1. The Board shall issue a provisional license immediately upon receipt of the required fee and the documentation required under Article I., section 3.(B)(i) to show that the applicant has a license from another jurisdiction that is in good standing and is substantially similar to an Arkansas podiatric physician license.
2. An applicant shall submit a completed application with all required remaining documentation in order to receive a license.
3. The provisional license shall be effective for 90 days or, if the complete application and remaining documentation are submitted, until the Board

CLEAN COPY

makes a decision on the application.

## **ARTICLE III. COMPLAINTS AND DISCIPLINARY ACTION**

1. In accordance with Ark. Code Ann. §§ 17-96-308 and 25-15-217, the Board may revoke, suspend, refuse to renew, or otherwise penalize the license of a podiatric physician after notice and hearing for any one or more of the following causes:

- (A) Is convicted of a crime listed under Ark. Code Ann. § 17-3-102;
- (B) Failure to display in the primary office the current certificates of registration;
- (C) Unprofessional and dishonest conduct, including but not limited to:
  - (i) Aiding and abetting an unlicensed person to practice Podiatric Medicine;
  - (ii) Violation of Ark. Code Ann. §§ 17-96-101, et seq; and
  - (iii) Violation of any statute, rule, or order of the Arkansas Board of Podiatric Medicine;
- (D) Habitual, intemperate, or excessive use of narcotics or any other habit-forming drugs;
- (E) Incompetent to practice medicine to such an extent as to endanger the public;
- (F) Insanity or mental disease if evidenced by adjudication or by an involuntary commitment to an institution for treatment of a mental disease or as determined by an examination conducted by three impartial psychiatrists;
- (G) Submitting false, deceptive or unfounded claims, reports or opinions to any patient or payor;
- (H) Gross, willful and continued overcharging for professional services;
- (I) Failure to report to the Board any disciplinary action, suspension or loss of privileges by a hospital, outpatient treatment or surgical facility within 30 days of such action; and

CLEAN COPY

(J) Failure to check the check the information in the Prescription Drug Monitoring Program when prescribing controlled substances, as required by the Prescription Drug Monitoring Program Act, Ark. Code Ann. §§ 20-7-601 et seq.

2. Any person may file a complaint with the Board against any licensed podiatric physician or unlicensed person that charges said person with having violated the Board's statutes or rules.
3. Complaints must be submitted to the Board in written form.
4. The Board may designate an individual to conduct investigations of written complaints.
5. Nothing in these rules shall prohibit informal disposition of complaints or allegations by agreement of parties
6. All hearings shall be conducted in accordance with the Administrative Procedure Act, Ark. Code Ann. §§ 25-15-201 et seq.

## ARTICLE IV. OFFICERS OF THE ARKANSAS BOARD OF PODIATRIC MEDICINE AND THEIR DUTIES

1. The officers of the Arkansas Board of Podiatric Medicine shall consist of a President and a Secretary-Treasurer. They shall be elected annually by the members of the Board and shall serve a term of one year, or until their successors are elected and qualified.
2. **President.** The president shall be the chief executive officer of the Board and shall preside at all of its meetings. The president shall sign all licenses and perform such other duties as may pertain to the office. The president shall approve all requests for the expenditure of funds of the Board, and shall have power to vote on all questions coming before the Board.
3. **Secretary-Treasurer.** The following described duties of the Secretary-Treasurer may be delegated to Board staff. The Secretary-Treasurer shall be in charge of the books, records, property, and money of the Arkansas Board of



CLEAN COPY

Podiatric Medicine. The Secretary-Treasurer shall conduct the Board's correspondence, keep a complete and accurate record of the business transactions at all meetings and of all fees received and expenses paid under these rules and shall report the same to the Arkansas Board of Podiatric Medicine annually. The Secretary-Treasurer shall also have the following duties and responsibilities:

- (A) The Secretary-Treasurer shall keep a complete record listing the names and addresses of all persons to whom licenses have been granted with the number, and the date of issuance of each license.
- (B) The Secretary-Treasurer shall collect all fees and renewals, and deposit to the account of the Arkansas Board of Podiatric Medicine all money received not later than the first day of the calendar month following receipt of the money.
- (C) The Secretary-Treasurer shall keep a full and complete record of all forfeited, revoked and expired licenses, and shall countersign all newly issued licenses.
- (D) The Secretary-Treasurer shall receive and submit to the Board for approval all applications for licensure and shall further be required to keep a full and complete record thereof.
- (E) The Secretary-Treasurer shall notify the members of the Board of the dates and places of all regular and special meetings of said Board, and shall notify applicants for licensure of the date and place of examination.
- (F) Before taking possession of office, the Secretary-Treasurer shall file with the president of the Board such surety bond as may be required by the Board, the expense of which shall be paid by the Board. At the expiration of the term of office the Secretary-Treasurer shall deliver to the successor all books, records, property, and money of the Board.
- (G) The Secretary-Treasurer shall receive and submit to the Board for approval all applications for license and any complaints regarding podiatric physicians that appear to be violations of these rules.
- (H) The Secretary-Treasurer shall not issue any duplicate license number or reassign any number that may become vacant.

CLEAN COPY

4. Other members of the Board may countersign, license, preside over meetings when necessary, and aid in conducting examinations of applicants.

## **ARTICLE V. MEETINGS OF THE ARKANSAS BOARD OF PODIATRIC MEDICINE**

1. The Board shall hold an annual business meeting. Special meetings of the Board may be called by the President, or in the absence or inability of the President to act, by the members of said Board, for the proper and efficient discharge of their duties as required by law.
2. At all meetings of the Board, three members shall be necessary for the transaction of business, and all motions must have two favorable votes in order for them to carry. At examinations only one member need be present to supervise the examination and render such service as may be needed.

## **ARTICLE VI. PODIATRIC PHYSICIAN DELEGATION**

1. Act 472 of the 87th General Assembly of the State of Arkansas, as of the year 2009, authorized Podiatric 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 Podiatric Physician when delegating to employees.
2. Definitions for Purposes of this Article VI.:
  - (A) "Podiatrist" means an individual licensed by the Arkansas Board of Podiatric Medicine as a Podiatric Physician.
  - (B) "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.

CLEAN COPY

(C) "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.

(D) "Supervision" means the act by a Podiatric Physician in directing and overseeing an employee who performs a delegated medical practice.

(E) "Medical Assistant" means an employee of a Podiatric 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.

3. General Provisions

(A) The delegating Podiatric 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 Podiatric 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 Podiatric Physician's supervision.

4. Procedures for Delegating a Medical Practice

Prior to delegating a medical practice or task, the Podiatric Physician shall determine the following:

(A) That the medical practice or task is within that Podiatric Physician's authority to perform;

(B) That the medical practice or task is indicated for the patient;

(C) The appropriate level of supervision for the Podiatric Physician to exercise while the medical practice or task is being performed;

CLEAN COPY

(D) 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

(E) 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.

5. Additional Requirements for Delegating the Administration of Drugs

(A) A Podiatric 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 Podiatric Physician's offices.

(C) The Podiatric Physician shall evaluate the acuity of the patient and make a determination that delegation is appropriate.

(D) The Podiatric 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.

6. Prohibitions

(A) A Podiatric Physician shall not transfer his or her responsibility for supervising an unlicensed person in the performance of a delegated medical practice, except to another Podiatric Physician who has knowingly accepted that responsibility;

(B) A Podiatric 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 Podiatric Physician shall not delegate to an unlicensed person the administration of anesthesia;

(D) A Podiatric Physician shall not delegate a medical practice that is not within the authority of that physician or is beyond the Podiatric Physician's training, expertise, or normal course of practice; and

(E) A Podiatric Physician shall not delegate a medical practice to an unlicensed person if the practice is beyond that person's competence.

## **ARTICLE VII.**

### **Licensure for Active Duty Service Members, Returning Military Veterans, and Spouses**

1. (A) As used in this rule, "uniformed service veteran" means a former member of the United States Uniformed Services discharged under circumstances other than dishonorable.

(B) "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.

2. The Board shall grant automatic licensure 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:

(A) An uniformed service member stationed in the State \_\_\_\_\_ of Arkansas;

(B) A uniformed service veteran who resides \_\_\_\_\_ in or establishes residency in the State of Arkansas; or

(C) The spouse of:

(i) A person under Article VII., section 2.(A) or (B);

CLEAN COPY

- (ii) 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
  - (iii) 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.
3. The Board shall grant such automatic licensure upon receipt of all of the below:
- (A) Payment of the initial licensure fee;
  - (B) Evidence that the individual holds a license with \_\_\_\_\_ a similar scope of practice in another state; and
  - (C) Evidence that the applicant is a qualified applicant under Article VII., section 2.(A), (B), or (C).
4. 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.
5. 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.

## **ARTICLE VIII. CONTINUING MEDICAL EDUCATION**

1. As part of the application for annual license renewal, licensees must submit to the Board proof that they completed twenty hours of approved continuing medical education within the year prior to the license renewal date.
2. A continuing medical education hour shall be considered "approved" if:
- (A) The hour has been approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association;
  - (B) The hour was obtained when attending official meetings presented by any State Podiatric Medical Association;
  - (C) The hour was obtained from meetings approved by the Council on Medical Education of the American Medical Association or approved by the Council on Osteopathic Medical Education of the American Osteopathic Association as long as the hours pertain to the practice

CLEAN COPY  
of Podiatric Medicine and

(D) The hour was obtained from hospital lectures, as long as the hour pertains to the practice of Podiatric Medicine.

3. The Board will accept any "approved" hours, as that term is defined in Article VIII., section 2 above, regardless of whether those hours are from meetings, the internet, or periodicals.

4. In addition to the methods of approval for continuing medical education hours provided in Article VIII., section 2 of this Rule, the Board may consider prior approval of meetings. Such prior approval shall be obtained from the Secretary of the Board or, if the Secretary is unavailable to consider hours for approval, a designee of the Board appointed by the President of the Board.

## **ARTICLE IX. PRESCRIBING AND DISPENSING SCHEDULE II NARCOTICS**

1. Unless otherwise stated in this Article IX., terms used shall be defined in accordance with the Prescription Drug Monitoring Program Act, A.C.A. §§ 20-7-601 et seq.

2. Dispensing Schedule II Narcotics.

A podiatric physician shall not dispense Schedule II narcotics.

3. Prescribing Schedule II Narcotics.

(A) 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.

(i) 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  $\geq 50$  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  $\geq 50$  MED 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 tritrate dosage to > 90 MME/day.

## **ARTICLE X. PRESCRIPTION DRUG MONITORING PROGRAM**

1. A Podiatric Physician shall check the information in the Prescription Drug Monitoring Program when prescribing:
  - (A) An opioid from Schedule II or Schedule III for every time prescribing the medication to a patient; and
  - (B) A benzodiazepine medication for the first time prescribing the medication to a patient.
  
2. This Article X. does not apply to the following:
  - (A) A licensee 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;
  
  - (B) A healthcare provider prescribing or administering a controlled substance to:
    - (i) A palliative care or hospice patient; or

CLEAN COPY

- (ii) A resident in a licensed nursing home facility; or
  - (iii) Situations in which the Prescription Drug Monitoring Program is not accessible due to technological or electrical failure.
3. A licensee must document in the patient record that the Prescription Drug Monitoring Program was checked.

## ARTICLE XI. FEES

1. The Board shall impose the following fees:

Initial License Fee - \$200

Annual Renewal Fee - \$75

2. Initial Fee Waiver

(A) Pursuant to Act 725 of 2021, an applicant may receive a waiver of the initial licensure fee, if eligible. Eligible applicants are applicants who:

(i) Are receiving assistance through the Arkansas, or current state of residence equivalent, Medicaid Program, the Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (SSNP), the Temporary Assistance for Needy Families Program (TEA), or the Lifeline Assistance Program (LAP);

(ii) Were approved for unemployment within the last twelve (12) months; or

(iii) Have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

(B) Applicants shall provide documentation showing their receipt of benefits from the appropriate State Agency.

(i) For Medicaid, SNAP, SSNP, TEA, or LAP, documentation from the Arkansas Department of Human Services (DHS), or current state of residence equivalent agency;

(ii) For unemployment benefits approval in the last twelve (12) months, the Arkansas Department of Workforce Services, or current state of residence equivalent agency; or

(iii) For proof of income, copies of all United States Internal Revenue Service Forms indicating applicant's total personal income for the most recent tax year e.g., "W2," "1099," etc.

CLEAN COPY

(C) Applicants shall attest that the documentation provided under (b) is a true and correct copy and fraudulent or fraudulently obtained documentation shall be grounds for denial or revocation of license.

## ARTICLE XII. CRIMINAL HISTORY

### 1. 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 or the Board's designee will respond with a decision in writing to a completed petition within a reasonable time.
- (D) The Board's response will state the reasons 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.

### 2. Waiver Request

- (A) If an individual has been convicted of an offense listed in A.C.A. § 17-3-102(a) or (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:
  - i. An affected applicant for a license; or
  - ii. An individual holding a license subject to revocation.
- (B) The Board may grant a waiver upon consideration of the following, without limitation:
  - i. The age at which the offense was committed;
  - ii. The circumstances surrounding the offense;
  - iii. The length of time since the offense was committed;
  - iv. Subsequent work history since the offense was committed;
  - v. Employment references since the offense was committed;
  - vi. Character references since the offense was committed;
  - vii. Relevance of the offense to the occupational license; and
  - viii. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

CLEAN COPY

- (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.*

Stricken language would be deleted from and underlined language would be added to present law.  
Act 135 of the Regular Session

1 State of Arkansas As Enrolled: S1/19/21 S1/26/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

SENATE BILL 78

4

5 By: Senators Hill, D. Wallace, T. Garner, Irvin, J. Hendren, J. English, Flippo

6 By: Representatives Lynch, Cozart, Brown, Evans

7

8

**For An Act To Be Entitled**

9 AN ACT TO ESTABLISH THE ARKANSAS OCCUPATIONAL  
10 LICENSING OF UNIFORMED SERVICE MEMBERS, VETERANS, AND  
11 SPOUSES ACT OF 2021; TO MODIFY THE AUTOMATIC  
12 OCCUPATIONAL LICENSURE REQUIREMENTS FOR UNIFORMED  
13 SERVICES MEMBERS, RETURNING UNIFORMED SERVICES  
14 VETERANS, AND THEIR SPOUSES; TO DECLARE AN EMERGENCY;  
15 AND FOR OTHER PURPOSES.

16

17

18

**Subtitle**

19

20

21

22

23

24

25

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26

27

SECTION 1. Arkansas Code § 17-1-106 is repealed.

28

~~17-1-106. Automatic licensure for active duty service members,  
returning military veterans, and spouses—Definitions.~~

29

30

~~(a) As used in this section:~~

31

32

33

34

~~(1) "Automatic 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 occupational  
licensing entity;~~

35

36

~~(2) "Occupational licensing entity" means an office, board,  
commission, department, council, bureau, or other agency of state government~~



1 ~~having authority to license, certify, register, permit, or otherwise~~  
2 ~~authorize an individual to engage in a particular occupation or profession;~~

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

7 ~~(4) "Returning military veteran" means a former member of the~~  
8 ~~United States Armed Forces who was discharged from active duty under~~  
9 ~~circumstances other than dishonorable.~~

10 ~~(b)(1) An occupational licensing entity shall grant automatic~~  
11 ~~licensure to engage in an occupation or profession to an individual who is~~  
12 ~~the holder in good standing of a substantially equivalent occupational~~  
13 ~~license issued by another state, territory, or district of the United States~~  
14 ~~and is:~~

15 ~~(A) An active duty military service member stationed in~~  
16 ~~the State of Arkansas;~~

17 ~~(B) A returning military veteran applying for licensure~~  
18 ~~within one (1) year of his or her discharge from active duty; or~~

19 ~~(C) The spouse of a person under subdivisions (b)(1)(A)~~  
20 ~~and (b)(1)(B) of this section.~~

21 ~~(2) However, an occupational licensing entity shall be required~~  
22 ~~to provide automatic licensure if the proposed rules are not approved as~~  
23 ~~required under subdivision (d)(2) of this section.~~

24 ~~(e) An occupational licensing entity may submit proposed rules~~  
25 ~~recommending an expedited process and procedure for occupational licensure~~  
26 ~~instead of automatic licensure as provided under subsection (b) of this~~  
27 ~~section to the Administrative Rules Subcommittee of the Legislative Council.~~

28 ~~(d) The Administrative Rules Subcommittee of the Legislative Council~~  
29 ~~shall:~~

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

34 ~~(2) Approve the proposed rules submitted under subsection (e) of~~  
35 ~~this section based on:~~

36 ~~(A) A determination of whether the expedited process and~~

1 ~~procedure provide the least restrictive means of accomplishing occupational~~  
2 ~~licensure; and~~

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

6 ~~(e) The Administrative Rules Subcommittee of the Legislative Council~~  
7 ~~may:~~

8 ~~(1) Establish a subcommittee to assist in the duties assigned~~  
9 ~~under this section;~~

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

14 ~~(3) Delegate its duties under this section to one (1) or more~~  
15 ~~subcommittees of the Legislative Council, subject to final review and~~  
16 ~~approval of the Administrative Rules Subcommittee of the Legislative Council.~~

17 ~~(f) An occupational licensing entity shall:~~

18 ~~(1) Submit proposed rules authorized under subsection (e) of~~  
19 ~~this section to the Administrative Rules Subcommittee of the Legislative~~  
20 ~~Council for review and approval before the proposed rules are promulgated~~  
21 ~~under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and~~

22 ~~(2) Provide to the House Committee on Aging, Children and Youth,~~  
23 ~~Legislative and Military Affairs an annual report stating the number of~~  
24 ~~automatic licenses and expedited occupational licenses granted under this~~  
25 ~~section to:~~

26 ~~(A) Active duty military service members stationed in the~~  
27 ~~State of Arkansas;~~

28 ~~(B) Returning military veterans applying within one (1)~~  
29 ~~year of their discharge from active duty; or~~

30 ~~(C) The spouse of a person under subdivisions (f)(2)(A)~~  
31 ~~and (f)(2)(B) of this section.~~

32

33 SECTION 2. Arkansas Code Title 17, Chapter 1, is amended to add an  
34 additional chapter to read as follows:

35 Chapter 4 – Arkansas Occupational Licensing of Uniformed Service Members,  
36 Veterans, and Spouses Act of 2021

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

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".

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 a half 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:



1                   (A) Automatic occupational licensure or expedited  
2 occupational licensure to current license holders to expedite their entry  
3 into the workforce of this state;

4                   (B) Temporary or provisional licensure to initial  
5 licensure candidates while expediting full licensure;

6                   (C) Legislative oversight of rulemaking by occupational  
7 licensing entities to ensure removal of occupational licensure barriers faced  
8 by uniformed service members, uniformed service veterans, and their spouses;  
9 and

10                   (D) Guidance to assure effective rulemaking and clear  
11 license application instructions to uniformed service members, uniformed  
12 service veterans, and their spouses;

13                   (2) Recognizing uniformed service education, training,  
14 experience, and credentials of uniformed service members and uniformed  
15 service veterans applying for initial occupational licensure; and

16                   (3) Extending licensure expiration and any continuing education  
17 required for occupational licensure renewal when a uniformed service member  
18 is deployed.

19  
20           17-4-103. Definitions.

21           As used in this chapter:

22                   (1) "Automatic occupational licensure" means the granting of  
23 occupational licensure without an individual's having met occupational  
24 licensure requirements provided under this title or by the rules of the  
25 relevant occupational licensing entity;

26                   (2) "Occupational licensing entity" means an office, board,  
27 commission, department, council, bureau, or other agency of state government  
28 having authority to license, certify, register, permit, or otherwise  
29 authorize an individual to engage in a particular occupation or profession,  
30 not including occupations or professions within the judicial branch of  
31 government or occupations or professions subject to the superintending  
32 control of the Supreme Court;

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

- 1                   (4) "Uniformed service member" means:  
2                   (A) An active or reserve component member of the United  
3 States Air Force, United States Army, United States Coast Guard, United  
4 States Marine Corps, United States Navy, United States Space Force, or  
5 National Guard;  
6                   (B) An active component member of the National Oceanic and  
7 Atmospheric Administration Commissioned Officer Corps; or  
8                   (C) An active or reserve component member of the United  
9 States Commissioned Corps of the Public Health Service; and  
10                  (5) "Uniformed service veteran" means a former member of the  
11 United States uniformed services discharged under conditions other than  
12 dishonorable.

13  
14                  17-4-104. Applicability.

15                  Unless otherwise stated in this chapter, this chapter applies to:

- 16                  (1) A uniformed service member stationed in the State of  
17 Arkansas;  
18                  (2) A uniformed service veteran who resides in or establishes  
19 residency in the State of Arkansas; and  
20                  (3) The spouse of:  
21                   (A) A person listed in subdivision (1) or (2) of this  
22 section;  
23                   (B) A uniformed service member who is assigned a tour of  
24 duty that excludes the uniformed service member's spouse from accompanying  
25 the uniformed service member and the spouse relocates to this state; and  
26                   (C) A uniformed service member who is killed or succumbs  
27 to his or her injuries or illness in the line of duty if the spouse  
28 establishes residency in the state.

29  
30                  17-4-105. Automatic occupational licensure.

31                  An occupational licensing entity shall grant automatic occupational  
32 licensure to engage in an occupation or profession to an individual who is:

- 33                   (1) Listed in § 17-4-104; and  
34                   (2) The holder in good standing of occupational licensure with  
35 similar scope of practice issued by another state, territory, or district of  
36 the United States.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

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.

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

An occupational licensing entity shall accept relevant and applicable uniformed service education, training, or service-issued credential toward occupational licensure qualifications or requirements when considering an application for initial licensure of an individual who is:

(1) A uniformed service member; or

(2) A uniformed service veteran who makes an application within one (1) year of his or her discharge from uniformed service.

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

1 uniformed service member's return from deployment.

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

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

11  
12 17-4-109. Legislative oversight of rules.

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

15 (1) Review the proposed rules of an occupational licensing  
16 entity as submitted for public comment at least thirty (30) days before the  
17 public comment period ends under the Arkansas Administrative Procedure Act, §  
18 25-15-201 et seq.; and

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

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

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

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

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

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

35 (3) Delegate the duties of the Administrative Rules Subcommittee  
36 of the Legislative Council under this section to one (1) or more

1 subcommittees of the Legislative Council, which shall be subject to the final  
2 review and approval of the Administrative Rules Subcommittee of the  
3 Legislative Council.

4  
5 17-4-110. Responsibilities of occupational licensing entities.  
6 An occupational licensing entity shall:

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

11 (2) If the proposed rules are not approved as required under §  
12 17-4-109, provide automatic occupational licensure to an individual listed in  
13 § 17-4-104;

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

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

21  
22 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
23 General Assembly of the State of Arkansas that current laws and  
24 administrative rules regarding the issuance of occupational licenses,  
25 certificates, and permits are barriers and create a hardship for uniformed  
26 service members, uniformed service veterans, and their spouses; that  
27 additional expedited processes, automatic licensure, and extended expiration  
28 dates of occupational licenses, certificates, and permits is needed to ensure  
29 that uniformed service members, uniformed service veterans, and their spouses  
30 may practice their chosen occupation or profession in the State of Arkansas;  
31 and that this act is immediately necessary to remove barriers and hardships  
32 in obtaining occupational licenses, certificates, and permits for uniformed  
33 service members, uniformed service veterans, and their spouses. Therefore, an  
34 emergency is declared to exist, and this act being immediately necessary for  
35 the preservation of the public peace, health, and safety shall become  
36 effective on:



Stricken language would be deleted from and underlined language would be added to present law.  
Act 725 of the Regular Session

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021

As Engrossed: S3/10/21

## A Bill

SENATE BILL 153

4  
5 By: Senators Gilmore, *B. Ballinger, Beckham, Bledsoe, B. Davis, Flipppo, T. Garner, K. Hammer, Hester,*  
6 *B. Johnson, D. Sullivan, C. Tucker, D. Wallace*  
7 By: Representatives Ray, *Beaty Jr., M. Berry, Boyd, Brooks, Brown, Furman, Haak, McCollum,*  
8 *Underwood, Wardlaw*

### For An Act To Be Entitled

10 AN ACT TO CREATE THE WORKFORCE EXPANSION ACT OF 2021;  
11 AND FOR OTHER PURPOSES.

### Subtitle

12 TO CREATE THE WORKFORCE EXPANSION ACT OF  
13 2021.

14  
15  
16  
17  
18  
19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21  
22 SECTION 1. Arkansas Code Title 4, Chapter 25, Subchapter 1, is amended  
23 to add an additional section to read as follows:

24 4-25-110. Fee waiver for certain individuals.

25 (a) Notwithstanding any law to the contrary, the initial filing fees,  
26 permit fees, and licensing fees associated with the formation of a business  
27 in this state shall be waived for applicants who meet the requirements in the  
28 Workforce Expansion Act of 2021, § 17-4-101 et seq.

29 (b) Appropriate state entities shall:

30 (1) Publish notice of the fee waiver on:

31 (A) The website maintained by the appropriate state  
32 entity; and

33 (B) Any relevant forms that an applicant is required to  
34 complete; and

35 (2) Promulgate any necessary rules to implement this section.  
36



1 SECTION 2. Arkansas Code Title 17, is amended to add an additional  
2 chapter to read as follows:

3 Chapter 4 – Workforce Expansion Act of 2021  
4

5 17-4-101. Title.

6 This chapter shall be known and may be cited as the "Workforce  
7 Expansion Act of 2021".  
8

9 17-4-102. Legislative findings – Purpose.

10 (a) The General Assembly finds that:

11 (1) Entrepreneurs and workers must pay various fees in order to  
12 work in a government-regulated profession or occupation or to start a small  
13 business in Arkansas;

14 (2) Families trying to break the cycle of government dependency  
15 should not have to pay the state to earn a living; and

16 (3) Arkansas should waive initial fees associated with  
17 occupational and professional regulations and the formation of a business for  
18 low-income individuals.

19 (b) It is the purpose of this chapter to increase access to  
20 professional and occupational licenses that would otherwise be cost  
21 prohibitive for certain individuals.  
22

23 17-4-103. Definitions.

24 As used in this chapter:

25 (1) "License" means a license, certificate, registration,  
26 permit, or other form of authorization required by law or rule that is  
27 required for an individual to engage in a particular occupation or  
28 profession; and

29 (2)(A) "Licensing entity" means an office, board, commission,  
30 department, council, bureau, or other agency of state government having  
31 authority to license, certify, register, permit, or otherwise authorize an  
32 individual to engage in a particular occupation or profession.

33 (B) "Licensing entity" does not include a political  
34 subdivision of the state or any other local or regional governmental entity,  
35 including without limitation a city of the first class, a city of the second  
36 class, an incorporated town, or a county.



1 17-4-104. Fee waiver.

2 (a) Notwithstanding any law to the contrary, a licensing entity shall  
3 not require an initial fee for individuals who are seeking to receive a  
4 license in this state if the applicant:

5 (1) Is receiving assistance through the Arkansas Medicaid  
6 Program, the Supplemental Nutrition Assistance Program, the Special  
7 Supplemental Nutrition Program for Women, Infants, and Children, the  
8 Temporary Assistance for Needy Families Program, or the Lifeline Assistance  
9 Program;

10 (2) Was approved for unemployment within the last twelve (12)  
11 months; or

12 (3) Has an income that does not exceed two hundred percent  
13 (200%) of the federal poverty income guidelines.

14 (b) The waiver of the initial fee does not include fees for:

15 (1) A criminal background check;

16 (2) An examination or a test; or

17 (3) A medical or drug test.

18 (c) The Department of Human Services and the Division of Workforce  
19 Services shall collaborate with a licensing entity concerning verification of  
20 eligibility for public benefits for applicants, which may include obtaining a  
21 signed consent form from the applicant.

22

23 17-4-105. Licensing entity duties.

24 A licensing entity shall:

25 (1) Publish notice of the fee waiver on:

26 (A) The website maintained by the licensing entity; and

27 (B) Any relevant forms that an applicant is required to

28 complete; and

29 (2) Promulgate any necessary rules to implement this chapter.

30

31 SECTION 3. EFFECTIVE DATE.

32 SECTIONS 1 and 2 of this act shall be effective on and after January 1,  
33 2022.

34

35 /s/Gilmore

36 APPROVED: 4/15/21

Stricken language would be deleted from and underlined language would be added to present law.  
Act 746 of the Regular Session

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021

# A Bill

HOUSE BILL 1735

4  
5 By: Representative Penzo  
6 By: Senator Hester

## For An Act To Be Entitled

9 AN ACT TO AUTHORIZE OCCUPATIONAL OR PROFESSIONAL  
10 LICENSURE FOR CERTAIN INDIVIDUALS; AND FOR OTHER  
11 PURPOSES.

## Subtitle

12  
13  
14  
15 TO AUTHORIZE OCCUPATIONAL OR PROFESSIONAL  
16 LICENSURE FOR CERTAIN INDIVIDUALS.

17  
18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 SECTION 1. Arkansas Code Title 17, Chapter 1, Subchapter 1, is amended  
22 to add an additional section to read as follows:

23 17-1-109. Licensing of certain individuals - Definitions.

24 (a) As used in this section:

25 (1) "Occupational or professional license" means a license,  
26 certificate, registration, permit, or other form of authorization required by  
27 law or rule for an individual to engage in a particular occupation or  
28 profession; and

29 (2) "Occupational or professional licensing entity" means an  
30 office, board, commission, department, council, bureau, or other agency of  
31 state government having authority to license, certify, register, permit, or  
32 otherwise authorize an individual to engage in a particular occupation or  
33 profession.

34 (b) An occupational or professional licensing entity shall grant an  
35 occupational or professional license under this section to an individual who  
36 fulfills the requirements to practice an occupation or profession in this



1 state and is a person who holds a Federal Form I-766 United States  
2 Citizenship and Immigration Services-issued Employment Authorization  
3 Document, known popularly as a "work permit".

4 (c) This section is a state law within the meaning of subsection (d)  
5 of 8 U.S.C. § 1621, as existing on January 1, 2021.

6  
7 SECTION 2. DO NOT CODIFY. Rules implementing this act.

8 (a) All occupational or professional licensing entities shall  
9 promulgate rules necessary to implement this act.

10 (b)(1) When adopting the initial rules to implement this act, the  
11 final rule shall be filed with the Secretary of State for adoption under §  
12 25-15-204(f):

13 (A) On or before January 1, 2022; or

14 (B) If approval under § 10-3-309 has not occurred by  
15 January 1, 2022, as soon as practicable after approval under § 10-3-309.

16 (2) An occupational or professional licensing entity shall file  
17 the proposed rule with the Legislative Council under § 10-3-309(c)  
18 sufficiently in advance of January 1, 2022, so that the Legislative Council  
19 may consider the rule for approval before January 1, 2022.

20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

APPROVED: 4/19/21

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021

# A Bill

HOUSE BILL 1796

4  
5 By: Representative Cozart  
6 By: Senator Hill

## For An Act To Be Entitled

7  
8  
9 AN ACT TO AMEND OCCUPATIONAL CRIMINAL BACKGROUND  
10 CHECKS; AND FOR OTHER PURPOSES.

### Subtitle

11  
12  
13 TO AMEND OCCUPATIONAL CRIMINAL  
14 BACKGROUND CHECKS.  
15  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19  
20 SECTION 1. Arkansas Code § 17-3-102(b)(1), concerning licensing  
21 restrictions based on criminal records, is amended to read as follows:

22 (b)(1) If an individual has been convicted of a crime listed in  
23 subsection (a) or subsection (e) of this section, a licensing entity may  
24 waive disqualification or revocation of a license based on the conviction if  
25 a request for a waiver is made by:

- 26 (A) An affected applicant for a license; or  
27 (B) The individual holding a license subject to  
28 revocation.  
29

30 SECTION 2. Arkansas Code § 17-3-102(e), concerning licensing  
31 restrictions based on criminal records, is amended to read as follows:

32 (e) Due to the serious nature of the offenses, the following shall  
33 result in ~~permanent~~ disqualification for licensure, regardless of the date of  
34 conviction or the date on which probation or incarceration ends unless a  
35 waiver is granted under subsection (b) of this section:

- 36 (1) Capital murder as prohibited in § 5-10-101;



- 1                   (2) Murder in the first degree as prohibited in § 5-10-102 and
- 2 murder in the second degree as prohibited in § 5-10-103;
- 3                   (3) Kidnapping as prohibited in § 5-11-102;
- 4                   (4) Aggravated assault upon a law enforcement officer or an
- 5 employee of a correctional facility as prohibited in § 5-13-211, if a Class Y
- 6 felony;
- 7                   (5) Rape as prohibited in § 5-14-103;
- 8                   (6) Sexual extortion as prohibited in § 5-14-113;
- 9                   (7) Sexual assault in the first degree as prohibited in § 5-14-
- 10 124 and sexual assault in the second degree as prohibited in § 5-14-125;
- 11                   (8) Incest as prohibited in § 5-26-202;
- 12                   (9) Endangering the welfare of an incompetent person in the
- 13 first degree as prohibited in § 5-27-201;
- 14                   (10) Endangering the welfare of a minor in the first degree as
- 15 prohibited in § 5-27-205;
- 16                   (11) Adult abuse that constitutes a felony as prohibited in § 5-
- 17 28-103; and
- 18                   (12) Arson as prohibited in § 5-38-301.

19

20                   SECTION 3. Arkansas Code § 17-3-102(g), concerning licensing

21 restrictions based on criminal records, is amended to read as follows:

22                   (g) The ~~permanent~~ disqualification for an offense listed in subsection

23 (a) or subsection (e) of this section does not apply to an individual who

24 holds a valid license on July 24, 2019.

25

26

27                   **APPROVED: 4/19/21**

28

29

30

31

32

33

34

35

36

**QUESTIONNAIRE**  
**FOR FILING PROPOSED RULES WITH THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

**DEPARTMENT/AGENCY** Arkansas Department of Health  
**DIVISION** ADH-Division of Health Related Boards and Commissions - Board of Podiatric Medicine  
**DIVISION DIRECTOR** Matt Gilmore  
**CONTACT PERSON** Dr. John Robinette/Matt Gilmore  
**ADDRESS** 4815 West Markham St. Slot 1, Little Rock, AR 72205  
**PHONE NO.** 661-2332 **FAX NO.** \_\_\_\_\_ **E-MAIL** arpodiatryboard@gmail.com  
**NAME OF PRESENTER AT COMMITTEE MEETING** Dr. John Robinette, Board Chair  
**PRESENTER E-MAIL** arpodiatryboard@gmail.com

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
 Administrative Rules Review Section  
 Arkansas Legislative Council  
 Bureau of Legislative Research  
 One Capitol Mall, 5th Floor  
 Little Rock, AR 72201

\*\*\*\*\*

1. What is the short title of this rule? Rule for ADH Board of Podiatric Medicine

2. What is the subject of the proposed rule? Procedures and enforcement provisions for those licensed by the Board

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?  
 Yes  No

If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No  If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes  No  If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes  No  If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

Adds language regarding fee waivers for individuals listed in Act 725 of 2021 Attorney General's (AG) office model language. Language update, licensure extension, and continuing education requirement wavier language updated/added per Act 135 of 2021 AG office model language. Removes reference to "permanently disqualifying offenses" per Act 748 of 2021 AG office model language. Explicitly states licensure eligibility for individuals who hold work permits per Act 746 of 2021 AG office model language.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

ACA 17-96-202(a)(3)A & B

7. What is the purpose of this proposed rule? Why is it necessary?

These amendments are necessary to clarify and update procedures for licensees and to comply with Acts 135, 725, 746, and 748 of the 2021 General Assembly.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://www.healthy.arkansas.gov/programs-services/topics/arkansas-board-of-podiatric-medicine>

9. Will a public hearing be held on this proposed rule? Yes  No  If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

02/15/2021  
\_\_\_\_\_

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

03/31/2021  
\_\_\_\_\_

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. \_\_\_\_\_

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). \_\_\_\_\_

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

It is unknown at this time but licensees and professional associations may wish to comment.



**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Health

**DIVISION** ADH-Division of Health Related Boards and Commissions - Board of Podiatric Medicine

**PERSON COMPLETING THIS STATEMENT** Matt Gilmore

**TELEPHONE NO.** 661-2332 **FAX NO.** \_\_\_\_\_ **EMAIL:** matt.gilmore@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** Rule for ADH Board of Podiatric Medicine

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

\$Unknown

\$Unknown

Positive financial impact for applicants eligible for fee waiver under Act 725 of 2021 and potential loss of revenue to Agency, but unable to forecast exact values due to lack of statistical information.

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

\$ 0

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.



# Arkansas Department of Health

---

Arkansas Board of Podiatric Medicine

4815 West Markham Street, Slot 1 • Little Rock, Arkansas 72205-3867 • arpodiatryboard@gmail.com

**Governor Asa Hutchinson**

**José Romero, MD, Secretary of Health**

**John Robinette, DPM, Board President**

## SUMMARY FOR THE ARKANSAS BUREAU OF LEGISLATIVE RESEARCH QUESTIONNAIRE

### FOR FILING PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL

- Adds language regarding fee waiver for eligible individuals listed in the Act 725 of 2021 (Attorney General's office model language).
- Language update, licensure extension, and continuing education requirement waiver language updated/added per Act 135 of 2021 (Attorney General's office model language).
- Removes reference to "permanently disqualifying offenses" per Act 748 of 2021 (Attorney General's office model language).
- Explicitly states licensure eligibility for individuals who hold work permits per Act 746 of 2021 (Attorney General's office model language).