

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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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 _____

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CHAPTER ONE GENERAL PROVISIONS

SECTION I PURPOSE AND AUTHORITY

A. PURPOSE

1. **ARKANSAS NURSE PRACTICE ACT** - Requires that any person who practices or offers to practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, practical nursing, or psychiatric technician nursing for compensation be licensed and submit evidence that he or she is qualified to so practice and shall be licensed as hereinafter provided.
2. **ARKANSAS STATE BOARD OF NURSING** - Established by the Arkansas *Nurse Practice Act* for the implementation of the statute by carrying on the licensing or certification, disciplinary, and educational functions for professional, advanced practice, registered nurse practitioner, practical, and psychiatric technician nursing and medication assistants.

- B. **LEGAL AUTHORITY** - The authority of the Board is contained in the ACA §17-87-101 et seq.

SECTION II THE PRACTICE OF NURSING

A. THE PRACTICE OF PROFESSIONAL NURSING

The performance for compensation of any acts involving the observation, care, and counsel of the ill, injured, or infirm; the maintenance of health or prevention of illness of others; the supervision and teaching of other personnel; the delegation of certain nursing practices to other personnel as set forth in rules established by the board; or the administration of medications and treatments as prescribed by practitioners authorized to prescribe and treat according to state law where such acts require substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical, and social sciences.

B. THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING

The practice of advanced practice registered nursing means the delivery of health care services for compensation by professional nurses who have gained additional knowledge and skills through successful completion of an organized program of nursing education that certifies nurses for advanced practice roles as certified nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, and clinical nurse specialists.

1. **CERTIFIED NURSE PRACTITIONER** — The practice of certified nurse practitioner nursing means the performance for compensation of nursing skills by a registered nurse who, as demonstrated by national certification, has advanced knowledge and practice skill in the delivery of nursing services.
2. **CERTIFIED REGISTERED NURSE ANESTHETIST** — The practice of certified registered nurse anesthesia means the performance for compensation of advanced nursing skills relevant to the administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, licensed dentist, or other person lawfully entitled to order anesthesia.
3. **CERTIFIED NURSE MIDWIFE** — The practice of nurse midwifery means the performance for compensation of nursing skills relevant to the management of women's health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, family planning, and gynecological needs of women, within a health care system that provides for consultation, collaborative management, or referral as indicated by the health status of the client.
4. **CLINICAL NURSE SPECIALIST** — The practice of clinical nurse specialist nursing means the performance for compensation of nursing skills by a registered nurse who, through study and supervised practice at the graduate

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level and as evidenced by national certification, has advanced knowledge and practice skills in a specialized area of nursing practice.

C. THE PRACTICE OF REGISTERED NURSE PRACTITIONER NURSING

The delivery of health care services for compensation in collaboration with and under the direction of a licensed physician or under the direction of protocols developed with a licensed physician. Registered nurse practitioners shall be authorized to engage in activities as recognized by the nursing profession and as authorized by the Board. Nothing in this subdivision is to be deemed to limit a registered nurse practitioner from engaging in those activities which normally constitute the practice of nursing or those which may be performed by persons without the necessity of the license to practice medicine.

D. THE PRACTICE OF PRACTICAL NURSING

The performance for compensation of acts involving the care of the ill, injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in rules established by the board; under the direction of a registered professional nurse, an advanced practice nurse, a licensed physician, or a licensed dentist, which acts do not require the substantial specialized skill, judgment, and knowledge required in professional nursing.

E. THE PRACTICE OF PSYCHIATRIC TECHNICIAN NURSING

The performance for compensation of acts involving the care of the physically and mentally ill, retarded, injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in rules established by the board, and the carrying out of medical orders under the direction of a registered professional nurse, an advanced practice nurse, a licensed physician or a licensed dentist, where such activities do not require the substantial specialized skill, judgment, and knowledge required in professional nursing.

SECTION III **IDENTIFICATION INSIGNIA**

- A.** Any person who holds a license to practice nursing in this state shall use the legal title or the abbreviation as set forth in Arkansas Code Annotated Section 17-87-101, et. seq. No other person shall assume any other name, title, or abbreviation or any words, letters, signs, or devices that would cause a reasonable person to believe the user is licensed to practice nursing.
- B.** Any person licensed to practice nursing shall wear an insignia to identify himself by his name and appropriate legal title or abbreviation during times when such person is providing health care to the public for compensation.
- C.** The insignia shall be prominently displayed and clearly legible such that the person receiving care may readily identify the type of nursing personnel providing such care.

SECTION IV **DEFINITION OF TERMS**

ACCREDITED – The status granted by an accrediting agency through a voluntary process.

ACTIVE PRACTICE – The act of performing for compensation those acts within specified scope of practice and authorized by the board.

ACTIVITIES OF DAILY LIVING — Those self-care activities which must be accomplished each day in order for the client to care for his own needs and participate in society.

ADVANCED PRACTICE REGISTERED NURSE CATEGORIES — Certified nurse practitioner, certified registered

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nurse anesthetist, certified nurse midwife, and clinical nurse specialist.

APPROVAL – Recognized by the Board as meeting the education standards for preparing graduates for registered or practical nurse licensure.

APPROVAL TYPES:

PREREQUISITE — Status authorizing a program to proceed in establishing a program of nursing.

INITIAL — Status awarded to a program that has met all initial requirements and authorizes the program to proceed to admission of students and completion of educational standards.

FULL — Status awarded to a program that has met all educational standards.

CONTINUED FULL — Status awarded to a program that continues to maintain the educational standards.

CONDITIONAL — Status of a program that has not maintained the educational standards. Serves as a warning that if the standards are not followed withdrawal of approval may be initiated.

ATD – Alternative to Discipline program.

BOARD — The Arkansas State Board of Nursing.

BOARD-APPROVED EVALUATOR - An individual who meets board approved standards.

BOARD REPRESENTATIVE — A person appointed, hired, or otherwise authorized by the Board to carry out its functions.

CASE MANAGER – The ATD Program staff person who monitors participants' compliance.

CLINICAL EXPERIENCE- a faculty planned and guided learning activity that is designed to support students in meeting identified programs educational and course outcomes. The clinical settings include a variety of clinical of clinical practice settings or affiliating agencies, including but not limited to:

ACUTE CARE SETTING- A hospital based clinical site where students provide direct patient care and associated clinical conferences.

NON-ACUTE CARE SETTING- A long term, extended care, or nursing home based clinical site where students provide direct patient care and associated clinical conferences.

COMMUNITY SETTING- Community partner experiences with nurses and or professional staff in settings other than acute and non – acute settings where students provide indirect or direct patient care and associated clinical conferences.

CLINICAL FACILITY — A facility outside the framework of the program which provides educational experiences for the student.

COLLABORATING PHYSICIAN — A physician, licensed under the Arkansas Medical Practices Act, §17-93-201 et seq., who has a practice comparable in scope, specialty or expertise to that of the advanced practice nurse or registered nurse practitioner.

COLLABORATIVE PRACTICE AGREEMENT — Document setting out how an advanced practice nurse and physician intend to cooperate in the delivery of client care.

CONSULTING PHYSICIAN — A physician licensed by the Arkansas Medical Practices Act who has obstetric privileges in a hospital.

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CONTRACT – The written agreement executed by a licensee or an applicant for licensure and the Board which establishes the terms for participation in the ATD program.

CONTACT HOUR- A measurement for continuing education; either a 50 or 60 minute clock hour of continuing education.

CONTINUING EDUCATION UNIT (CEU)- A measurement for continuing education; one CEU equals ten (10) contact hours.

CONTROLLED SUBSTANCE — Drug substance or immediate precursor in Schedules I-V.

CREDENTIAL — A license, certificate, or other evidence of qualifications.

DELEGATION — Entrusting the performance of a selected nursing task to an individual who is qualified, competent, and able to perform such tasks. The nurse retains the accountability for the total nursing care of the individual.

DISTANT LEARNING SITE — A location separate from the main campus where course offerings are delivered.

DOCUMENTATION — Written proof or evidence to substantiate factual claims or statements satisfactory to the Board.

DRUG SAMPLE — A unit of a legend drug which is distributed to a practitioner by a manufacturer or a manufacturer's representative at no charge, is not intended to be sold, and is intended to promote the sale of the drug.

EMERGENCY CARE — Unanticipated care provided to a person who is unconscious, ill, or injured, when the circumstances require prompt decisions and actions, and when the necessity of immediate care is so apparent that any delay would seriously worsen the physical condition or endanger the life of the person.

FIRST LEVEL NURSE — A nurse who provides and coordinates patient care after graduating from an approved program of at least two years in length. Regionally, the nurse may be referred to as a professional or a registered nurse (RN).

FAILED DRUG SCREEN- The analysis of a biological specimen which is determined to be dilute, substituted, abnormal, adulterated, or tests positive for controlled substances, abuse potential substances or their metabolites without a valid prescription.

GRADUATE COMPETENCIES — Educational outcomes expected of the nursing program's graduates.

IMPAIRED NURSE - A licensee or applicant for licensure who is impaired by alcohol use, a substance use disorder, or co-occurring disorder.

LEGEND DRUG — A drug limited by Section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act to being dispensed by or upon a practitioner's prescription.

MAY — Indicates permission.

MISSION — Beliefs accepted by the parent institution for the framework of the school's programs and offerings.

NONCOMPLIANCE — Failure of the ATD participant to comply with the terms and conditions of the contract.

OBSERVATIONAL EXPERIENCE — One in which the nursing student provides no nursing care.

PARENT INSTITUTION — The official institution sponsoring the nursing program.

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PARTICIPANT – A licensee who executes a contract with the Board.

PATIENT HARM – Actual or potential physical or mental injury, abuse or neglect of a patient.

PERSONAL CARE – Assistance with activities of daily living not requiring a medical prescription.

PHILOSOPHY – Beliefs adopted by the nursing faculty for the framework of the program.

PRACTICE- FOCUSED- Academic study or continuing education targeted to meet the needs of the nurse in his / her nursing practice role.

PRECEPTOR – A currently licensed nurse or physician, meeting the requirements of these rules, who serves as a facilitator of student learning in a practice setting.

PRECEPTORSHIP – Practice under the supervision of a qualified preceptor in the care of consumers of health services while a student in a Board approved program.

PRESCRIPTIVE AUTHORITY – Authorization, given by the Board, for an advanced practice nurse who meets established requirements to prescribe. Prescriptive authority for controlled substances shall only extend to drugs listed in Schedules **II** through V.

PROFESSIONAL BOUNDARIES – Social, physical, and psychological limits in a therapeutic relationship between a nurse and a patient or their family which promotes the client's dignity, independence, and best interests.

PROGRAM – An education unit that offers courses and learning experiences preparing graduates who are competent to practice nursing safely and who are eligible to take the NCLEX-PN or RN® examination. The program is often referred to as a pre-licensure nursing program. Types of pre-licensure nursing education programs are:

ASSOCIATE DEGREE PROGRAM – A professional nursing program leading to an associate degree with a major in nursing.

BACCALAUREATE DEGREE PROGRAM – A professional nursing program leading to a baccalaureate degree with a major in nursing.

DIPLOMA PROGRAM – A professional nursing program leading to a diploma with a major in nursing.

MASTER'S DEGREE PROGRAM – A professional nursing program leading to a master's degree which is an individual's first professional degree in nursing.

PRACTICAL NURSING PROGRAM – A nursing program leading to a certificate in practical nursing.

PSYCHIATRIC TECHNICIAN NURSING PROGRAM – A nursing program leading to a certificate in psychiatric technician nursing.

PROGRAM DIRECTOR– The individual employed by the board to administer the ATD program or the person responsible for the specific educational unit in nursing, regardless of the official title in the institution.

PROTOCOL – A written statement which delineates agreed-upon approaches in client care and management.

REFRESHER COURSE- A formal course of instruction designed to provide a review and update of nursing theory and practice.

QUALIFIED PROVIDER – Individuals engaged in the treatment of substance use disorder, including alcohol, with sufficient education, training and experience.

RELAPSE –Use of any unauthorized controlled or abuse potential substance including alcohol as reported by the participant or the submission of any confirmed positive drug screen.

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SATELLITE CAMPUS – A separate geographic location where a program is offered which has a separate student body and a separate faculty leader/coordinator and/or faculty.

SELF-REPORT – A licensee or an applicant for licensure who provides voluntary written notification to board staff or the ATD program director that the licensee or applicant for licensure is or has been impaired.

SHALL, WILL, MUST – Indicates a mandatory requirement.

SHOULD – Indicates a recommendation.

SUD – Substance Use Disorder is defined by the Substance Abuse and Mental Health Services Administration as the recurrent use of alcohol and/or drugs which causes clinically and functionally significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.

SURVEY – A visit to determine compliance with minimum requirements.

THERAPEUTIC DEVICE – An instrument or apparatus, requiring a prescription, that is intended for use in diagnosis or treatment, and in the prevention of disease or maintenance or restoration of health.

TRANSMITTING – Relaying an order for a medication, treatment, or therapeutic device.

UNDER THE DIRECTION OF A LICENSED PHYSICIAN – The performance of specific acts and procedures which have been authorized by a licensed physician and which may be performed outside the presence of the physician under conditions where a physician is readily available for consultation.

UNENCUMBERED LICENSE – Free of disciplinary limitations.

HISTORY: Amended January 1, 2018; January 1, 2020

SECTION V **GENERAL MATTERS**

A. OFFICE AND HOURS

The office of the Board is in Little Rock, Arkansas. The office shall be open during business hours each day; Saturday, Sunday, and holidays excepted.

B. EXAMINATION, INQUIRY, OR INVESTIGATION

The Board may, through one or more of its members, or staff especially authorized, conduct at its office in Little Rock, Arkansas, or in any part of the state, any examination, inquiry or investigation, hearing, or other proceeding necessary to perform its duties and functions. The executive director shall have custody of the seal and official records and shall be responsible for the maintenance and custody of the files and records of the Board, including the credentials for all Arkansas licensed nurses, transcripts of testimony and exhibits, the minutes of all actions taken by the Board and all of its findings, determinations, reports, opinions, orders, rules, and approved forms.

C. AUTHENTICATION

All notices and other actions of the Board shall be authenticated or signed by the president, secretary, or such other person as may be authorized by the Board.

D. NOTICE

Upon order of the Board, the president, secretary, or executive director shall issue all notices of hearings and other process as may be directed by the Board.

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E. EXECUTIVE DIRECTOR

The executive director of the Board shall be a registered nurse and meet the qualifications required by the Board.

F. BOARD FUNDS AND FEES

1. The Board shall establish and collect fees for services relating to examination, licensing, endorsement, certification for prescriptive authority, temporary permits, license renewal, and other reasonable services as determined by the Board.
2. All funds received by the Board shall be deposited in the State Treasury to the credit of the Board.
3. Fees paid to the Board may be in the form of cashier checks, credit card or money orders. Personal checks for initial licensure are accepted from in-state residents only.
4. Fees paid to the Board are processing fees and are not refundable.

G. RECORDS

1. Record Maintenance
The executive director shall enter, in permanent form, credentials of all nurses, records of official transactions and proceedings, and keep such records in safekeeping.
2. Tapes
Meetings may be taped by a secretary as necessary for purposes of minute taking. Tapes may be erased after corresponding minutes have been approved.
3. Destruction
The executive director may destroy or dispose of records in the office in accord with applicable law.
4. Certified Copies
Upon written request and payment of a fee, the executive director shall provide to any nurse holding Arkansas licensure a certified copy of any of his or her records on file in the Board office.
5. Public Inspection
Records shall be open to public inspection except as may be specifically exempted by statute.
6. Request for Copies of Rules
Copies of rules of the Board will be furnished free of charge to any official of a government agency requesting them in the performance of his or her duties.

H. EXAMINATION REVIEW

A registered nurse, practical nurse, or psychiatric technician nurse candidate who has failed the licensure examination may review his or her examination and/or challenge examination items according to the policies and procedures of the test development vendor.

SECTION VI

FAITH A. FIELDS NURSING SCHOLARSHIP/LOAN PROGRAM

A. ELIGIBILITY REQUIREMENTS

As funds are made available, any Arkansas resident who is enrolled in, or has been accepted for admission to, an approved school of nursing in this state or in a nationally accredited school outside the state, in a course of study leading to qualification as a registered nurse, licensed practical nurse, or nurse educator shall be eligible to make application to the Arkansas State Board of Nursing for a nursing educator loan or a nursing practice loan. The Board may, depending upon available funds, make a nursing educator loan or a nursing practice loan to an applicant when it determines that the applicant:

1. Warrants financial assistance to complete his or her nursing studies.
2. Has signed a written agreement to, upon graduation and licensure and for one year for each year a loan is granted:
 - a. Teach in a nursing education program in the State of Arkansas if granted a nursing educator loan; or
 - b. Engage in practice as a registered nurse or licensed practical nurse in the State of Arkansas if granted a nursing practice loan; and
 - c. Repay each loan with interest at the maximum legal rate if the applicant fails to fulfill the requirements of the board.

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B. MAINTENANCE REQUIREMENTS

1. Subject to the availability of funds and the limits set out in these rules, each loan made to an applicant shall be renewable annually for the number of years required to complete studies leading to qualification as a registered nurse, license practical nurse, or nursing educator.
2. Any loan made to an applicant subsequent to an initial loan shall be made only upon application of the recipient and upon finding by the Arkansas State Board of Nursing that the applicant:
 - a. Has successfully completed the nursing studies of the preceding academic year and remains in good standing as an enrolled student in the appropriate nursing program;
 - b. Warrants financial assistance to complete his or her nursing studies;
 - c. Has signed a written agreement to, upon graduation and licensure and for one year for each year a loan is granted:
 - i. Teach in a nursing education program in the State of Arkansas; or
 - ii. Engage in practice as a registered nurse or licensed practical nurse in the State of Arkansas; and
 - iii. Repay each loan with interest at the maximum legal rate if the applicant fails to fulfill the requirements of the board; and
 - d. Continues to be a lawful resident of the State of Arkansas.
3. The total of the loans made to any one (1) student shall not exceed twenty thousand dollars (\$20,000).

C. BORROWER'S LOSS OF GOOD STANDING

If the recipient of a loan ceases to be enrolled in good standing in a recognized nursing program before completing the education requirements to qualify as a registered nurse, licensed practical nurse, or nursing educator, the principal and interest of all loans made to the recipient shall become due and payable immediately or as provided in the loan agreement.

D. LOAN REPAYMENT

1. A recipient of a loan shall repay each loan together with interest at the maximum rate allowed by Arkansas law if the recipient:
 - a. Ceases to be enrolled in good standing in a recognized nursing program before completing the education requirements to qualify as a registered nurse, licensed practical nurse, or nursing educator;
 - b. Does not, for the period specified in the agreement, teach in an Arkansas nursing education program if granted a nursing educator loan, or engage in practice as a registered nurse or licensed practical nurse in Arkansas if granted a nursing practice loan; or
 - c. Fails to comply with any other requirements of the agreement.
2. Interest shall accrue from the date each payment of funds was received by the recipient.
3. No interest shall accrue and no obligation to repay a loan exists during any period of time that the recipient of the loan serves on active duty in the United States armed forces.
4. If repayment of a loan is required, upon the death of the recipient of the loan all unpaid principal and interest is due and payable.
5. The failure to repay a loan as specified may be considered unprofessional conduct for disciplinary purposes.

E. DEFAULT OR DELINQUENT STUDENT LOANS AND SCHOLARSHIPS

1. Except as provided for rural medical practice, student loans and scholarships under Arkansas Code Annotated § 6-81-701, et seq., the Arkansas State Board of Nursing shall not suspend or revoke a license that has been issued to an individual solely on the basis of that individual being in:
 - a. Default on the repayment obligations required by one (1) or more student loans; or
 - b. Delinquent in the payments of one (1) or more student loans; or
 - c. Default on the satisfaction of the requirements and conditions of a scholarship; or
 - d. Delinquent in the satisfaction of the requirements and conditions of a scholarship.

HISTORY: Amended January 1, 2020



Arkansas Department of Health

Arkansas State Board of Nursing
1123 S. University Ave., #800 • Little Rock, Arkansas 72204 • (501) 686-2700 • Fax (501) 686-2714
Governor Asa Hutchinson
José R. Romero, MD, Secretary of Health
Sue A. Tedford, MNsc, APRN, Director

MEMORANDUM

DATE: October 27, 2020

TO: Office of the Arkansas Secretary of State
register@sos.arkansas.gov

FROM: Leslie Suggs
Executive Assistant to the Director

RE: Proposed Changes to the *ASBN Rules*:
Chapter One-General Provisions
Chapter Two- Licensure: RN, LPN, and LPTN
Chapter Four- Advanced Practice Registered Nurse
Chapter Six- Standards for Nursing Education Programs
Chapter Seven- Rules of Procedure
Chapter Eight- Medication Assistant-Certified
Chapter Nine- Insulin and Glucagon Administration

Our public comment period concerning this matter ends on November 27, 2020. A public hearing at our office is scheduled to take place on November 24, 2020 at 10:00 a.m.

Following is a summary of the proposed changes:

Chapter 1

The definition of Prescriptive Authority was changed from Schedule III to II pursuant to Act 593 of 2019.

Chapter 2

In accordance with Act 990 of 2019, ACA §17-87-312 was changed to ACA §17-03-102. The term "nonrenewable" was added, and clarification on application and review of pre-licensure determination of granting a waiver for specific criminal convictions was made. For consistency among all compact states, we clarified how federal criminal records are handled among party states, how to handle active duty military personnel and their spouses, and on dispute resolution among party states. Filed as emergency rule effective May 15, 2020 to expire September 13, 2020, "1,000 hours within the one year" was changed to "within the two years" after it was determined this was an impediment to qualified nurses being able to work where needed during this pandemic is an imminent peril to public health, safety and welfare.

Chapter 4

In accordance with Act 990 of 2019, ACA §17-87-312 was changed to ACA §17-03-102 and the term "nonrenewable" was added.

Chapter 6

In accordance with Act 990 of 2019, ACA §17-03-102 was added.

Chapter 7

In accordance with Act 990 of 2019, ACA §17-87-312 was changed to ACA §17-03-102.

Chapter 8

We have changed the definition of “Designated Facilities”, “Supervision”, the terms “nursing home” to “designated facility” and “Nursing Homes” to “Designated Facilities” to broaden use of MACs in correctional facilities. Clarification for the practice of MA-Cs in nursing homes due to restriction not needed in correctional facilities was made.

Chapter 9

We added a statement permitting public school employees to volunteer and updated the agency throughout the chapter as requested by Department of Education.