

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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



Name of Department _____

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 _____

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY: Department of Health
DIVISION: Division of Health Related Board and Commissions - State Board of Nursing
DIVISION DIRECTOR: Matt Gilmore
CONTACT PERSON: Sue Tedford
ADDRESS: 1123 S. University Ave., Suite 800; Little Rock, AR 72204
PHONE NO.: (501) 686-2703 **FAX NO.:** (501) 686-2714 **E-MAIL:** sue.tedford@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING: Sue Tedford
PRESENTER E-MAIL: sue.tedford@arkansas.gov

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 Rule” below.**
- D. Submit two (2) copies of this 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?

Chapter Eleven- Full Independent Practice Credentialing Committee

- 2. What is the subject of the proposed rule?

Full Independent Practice Credentialing Committee

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

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

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 X No ____ If yes, please provide a brief summary explaining the rule.

To delineate the parameters in which the Full Independent Practice Credentialing Committee will function.

Does this repeal an existing rule? Yes _____ No X 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 X 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.”**

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

Administrative Procedures Act; A.C.A. § 25-15-201, et. seq.

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

RULE	CHANGE	REASON FOR CHANGE
Ch.11	To established Rules for the Full Independent Practice Credentialing Committee	Act 412 of 2021

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).

www.arsbn.org

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

Date: March 2, 2022

Time: 2:00 p.m.

Place: 1123 South University Avenue, Suite 312, Little Rock, AR 72204

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

March 14, 2022

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

Date pending legislative review and approval (proposed date is May 1, 2022)

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.

Attached

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

Attached

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.

Arkansas Medical Society, Arkansas Nurses Association, and Arkansas Nurse Practitioner Association

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT/AGENCY: Department of Health

DIVISION: Division of Health Related Board and Commissions - State Board of Nursing

PERSON COMPLETING THIS STATEMENT: Sue Tedford

PHONE NO.: (501) 686-2703 **FAX NO.:** (501) 686-2714 **E-MAIL:** sue.tedford@arkansas.gov

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

SHORT TITLE OF THIS RULE Chapter Eleven– Full Practice Credentialing Committee

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes X 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 X 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 X 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;
N/A
- (b) The reason for adoption of the more costly rule;
N/A
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
N/A
- (d) Whether the reason is within the scope of the agency’s statutory authority, and if so, please explain.
N/A

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 0
Federal Funds 0
Cash Funds 0
Special Revenue 0
Other (Identify) 0

Total 0

General Revenue 0
Federal Funds 0
Cash Funds 0
Special Revenue 0
Other (Identify) 0

Total 0

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

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____ 0 _____
Cash Funds _____ 0 _____
Special Revenue _____ 0 _____
Other (Identify) _____ 0 _____

General Revenue _____
Federal Funds _____ 0 _____
Cash Funds _____ 0 _____
Special Revenue _____ 0 _____
Other (Identify) _____ 0 _____

Total _____

Total _____

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

\$ 5,095.00

\$ 8,568.00

The fiscal cost for implementation of Act 412 is related to the per diem and milage paid to the Committee members. There was no cost associated with reprogramming the licensure database to include the applications for independent practice.

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

\$ _____

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 X _____

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.

PROPOSED COPY

CHAPTER ELEVEN FULL INDEPENDENT PRACTICE CREDENTIALING COMMITTEE

SECTION I PURPOSE & AUTHORITY

- A. PURPOSE** - The purpose of the Full Independent Practice Credentialing Committee is to:
1. Review and act on applications for full independent practice authority submitted by Certified Nurse Practitioners and
 2. Review and act on complaints filed against Certified Nurse Practitioners who have full independent practice authority.
- B. LEGAL AUTHORITY** - The authority of the Full Independent Practice Authority Committee is pursuant to Ark. Code Ann. § 17-87-314, et seq.

SECTION II GENERAL MATTERS

A. DEFINITION OF TERMS

1. Full Independent Practice Authority: the ability of a Certified Nurse Practitioner to practice with prescriptive authority without a collaborative practice agreement as described in Ark. Code Ann. § 17-87-310.
2. Prescriptive Authority: the ability to receive and prescribe drugs, medicines, or therapeutic devices appropriate to the advanced practice registered nurse's area of practice.
3. Certified Nurse Practitioner: a registered nurse who has successfully completed a nationally accredited graduate or post-graduate APRN education program that prepares nurses for the advanced practice role of nurse practitioner, is nationally certified in the population foci appropriate to the educational preparation and licensed at the advanced practice level.

B. MEETING

1. The Committee shall meet at least quarterly and shall have the power to call and hold special meetings at such times and places as it deems necessary.
2. Five members shall constitute a quorum at any meeting of the Committee.

C. MEMBERS

The Committee shall be comprised of eight members appointed according to ACA 17-87-314 who may serve up to two 3-year terms, or until successor is appointed.

D. OFFICERS

1. The Committee shall elect a Chair, and a Vice-Chair.
2. Officers may serve no more than two consecutive 1-year terms.
3. Powers & Duties of the Chair:
 - a. Sign subpoenas,
 - b. Administer oaths,
 - c. Authenticate all notices and other actions of the Committee, and
 - d. Issue notices of hearings and other processes and as directed by the Committee
4. The Vice-Chair shall assume all duties and privileges of the Chair in the absence of the Chair.

PROPOSED COPY

E. DUTIES

1. Review all applications, initial or renewal, for full independent practice authority submitted by Certified Nurse Practitioners licensed by the Arkansas State Board of Nursing.
2. Approve or deny applications for full independent practice authority.
 - a. All actions shall be provided, in writing, to the applicant.
 - b. Denial of an application shall include the reason(s) for denial.
3. Review complaints filed in writing against Certified Nurse Practitioners with full independent practice authority.
 - a. The Committee shall review complaints against Certified Nurse Practitioners who hold a certificate of full independent practice authority.
 - b. The Committee may take action, suspend or revoke the certificate for full independent practice authority based on the complaint; however, the Committee may not take action against the nursing license of a certified nurse practitioner.
 - c. All complaints and actions shall be reported to the Arkansas State Board of Nursing.

F. HEARINGS

1. Hearings will be conducted when the Committee takes action to suspend or revoke the certificate of full independent practice authority.
2. Hearings will be conducted according to the Arkansas Administrative Procedures Act.
3. The Certified Nurse Practitioner will be provided ten (10) days' notice, in writing, to appear before the Full Independent Practice Credentialing Committee.

G. APPEAL

If a Certified Nurse Practitioner's certificate of full independent practice authority is denied, suspended, or revoked they may appeal the action of the Committee under the Arkansas Administrative Procedure Act, §25-15-201.

F. REPORTS

A quarterly report will be provided to the Senate Committee on Public Health, Welfare and Labor and the House Committee on Public Health, Welfare and Labor. The report will contain, at a minimum, the number of applicants approved and denied a certificate of independent practice authority.

SECTION III

QUALIFICATIONS FOR FULL INDEPENDENT PRACTICE AUTHORITY

A. INITIAL

1. Submission of an application for full independent practice authority.
2. Submission of ~~three (3) letters one (1) letter~~ two (2) letters of recommendation.
3. Hold an active unencumbered Arkansas Certified Nurse Practitioner license.
4. Hold an unencumbered prescriptive authority certificate or equivalent in the state of licensure.
- ~~5.—Submission of a notarized affidavit attesting to the number of clinical practice hours.~~
- ~~6.—Submission of an affidavit from the collaborating physician(s) attesting the Certified Nurse Practitioner has practiced a minimum of 6,240 hours under a collaborative practice agreement.~~
 - ~~a.—In the event a collaborating physician has died, become disabled, retired, relocated to another state, or in the event of any other circumstance that inhibits the ability of the nurse practitioner from obtaining an affidavit, the nurse practitioner may submit other evidence of meeting the qualifications for full independent practice along with an affidavit signed by the nurse practitioner. The burden shall be on the nurse practitioner to provide sufficient evidence to support the nurse practitioner's inability to obtain an affidavit from a collaborating physician.~~

Full Independent Practice Credentialing Committee Rules

PROPOSED COPY

- ~~i. Other evidence may include employment records, military service, Medicare or Medicaid reimbursement records, or other similar records that verify clinical practice in the population foci for which the nurse practitioner is licensed and certified.~~
- ~~b. A nurse practitioner who has practiced in a state that doesn't require a collaborative practice agreement shall submit an affidavit that the nurse practitioner has completed the equivalent of 6,240 hours of practice in accordance with the laws of the state in which the nurse practitioner was previously licensed or prescribing and any additional documents requested by the Committee as listed in Section III(A)(4)(a)(i) and Section III(A)(5).~~
- 5. Submission of documentation showing a minimum of 6,240 hours of practice under a collaborative practice agreement. Such documentation shall include:
 - a. An affidavit from a collaborating physician attesting to the number of hours the Certified Nurse Practitioner practiced under a collaborative practice agreement with the physician. Multiple attestations are acceptable.; or
 - b. Other evidence of meeting the qualifications for full independent practice and an affidavit signed by the nurse practitioner, in the event a collaborating physician has died, become disabled, retired, relocated to another state, or any other circumstance that inhibits the ability of the nurse practitioner from obtaining an affidavit.
 - i. Other evidence may include employment records, military service, Medicare or Medicaid reimbursement records, or other similar records that verify clinical practice in the population foci for which the nurse practitioner is licensed and certified.
 - ii. The burden shall be on the nurse practitioner to provide sufficient evidence to support the nurse practitioner's inability to obtain an affidavit from a collaborating physician.
- 6. Submission of any other relevant documents requested by the Committee in support of application.

B. RENEWAL

- 1. The Certificate for full independent practice authority shall be renewed every three years by submitting the required application and corresponding fee.
- 2. Renewal applicants must hold an active unencumbered Arkansas Certified Nurse Practitioner license.

SECTION IV FEES

- A. The Committee shall establish fees for services relating to application for full independent practice authority and renewal of the full independent practice certificate.
 - 1. The initial application fee shall be \$150.00.
 - 2. The certificate renewal fee shall be \$50.00.
 - 3. All funds received shall be deposited in the State Treasury to the credit of the Committee.
 - 4. Fees paid shall be by credit card.
 - 5. Fees paid are processing fees and are not refundable.

HISTORY: Adopted:

CLEAN COPY

CHAPTER ELEVEN **FULL INDEPENDENT PRACTICE CREDENTIALING COMMITTEE**

SECTION I **PURPOSE & AUTHORITY**

- A. PURPOSE** - The purpose of the Full Independent Practice Credentialing Committee is to:
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 3. Certified Nurse Practitioner: a registered nurse who has successfully completed a nationally accredited graduate or post-graduate APRN education program that prepares nurses for the advanced practice role of nurse practitioner, is nationally certified in the population foci appropriate to the educational preparation and licensed at the advanced practice level.
- B. MEETING**
1. The Committee shall meet at least quarterly and shall have the power to call and hold special meetings at such times and places as it deems necessary.
 2. Five members shall constitute a quorum at any meeting of the Committee.
- C. MEMBERS**
- The Committee shall be comprised of eight members appointed according to ACA 17-87-314 who may serve up to two 3-year terms, or until successor is appointed.
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1. The Committee shall elect a Chair, and a Vice-Chair.
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 - d. Issue notices of hearings and other processes and as directed by the Committee
 4. The Vice-Chair shall assume all duties and privileges of the Chair in the absence of the Chair.

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E. DUTIES

1. Review all applications, initial or renewal, for full independent practice authority submitted by Certified Nurse Practitioners licensed by the Arkansas State Board of Nursing.
2. Approve or deny applications for full independent practice authority.
 - a. All actions shall be provided, in writing, to the applicant.
 - b. Denial of an application shall include the reason(s) for denial.
3. Review complaints filed in writing against Certified Nurse Practitioners with full independent practice authority.
 - a. The Committee shall review complaints against Certified Nurse Practitioners who hold a certificate of full independent practice authority.
 - b. The Committee may take action, suspend or revoke the certificate for full independent practice authority based on the complaint; however, the Committee may not take action against the nursing license of a certified nurse practitioner.
 - c. All complaints and actions shall be reported to the Arkansas State Board of Nursing.

F. HEARINGS

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2. Hearings will be conducted according to the Arkansas Administrative Procedures Act.
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SECTION III

QUALIFICATIONS FOR FULL INDEPENDENT PRACTICE AUTHORITY

A. INITIAL

1. Submission of an application for full independent practice authority.
2. Submission of two (2) letters of recommendation.
3. Hold an active unencumbered Arkansas Certified Nurse Practitioner license.
4. Hold an unencumbered prescriptive authority certificate or equivalent in the state of licensure.
5. Submission of documentation showing a minimum of 6,240 hours of practice under a collaborative practice agreement. Such documentation shall include:
 - a. An affidavit from a collaborating physician attesting to the number of hours the Certified Nurse Practitioner practiced under a collaborative practice agreement with the physician. Multiple attestations are acceptable.; or
 - b. Other evidence of meeting the qualifications for full independent practice and an affidavit signed by the nurse practitioner, in the event a collaborating physician has died, become disabled, retired, relocated to another state, or any other circumstance that inhibits the ability of the nurse practitioner from obtaining an affidavit.

Full Independent Practice Credentialing Committee Rules

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- i. Other evidence may include employment records, military service, Medicare or Medicaid reimbursement records, or other similar records that verify clinical practice in the population foci for which the nurse practitioner is licensed and certified.
 - ii. The burden shall be on the nurse practitioner to provide sufficient evidence to support the nurse practitioner's inability to obtain an affidavit from a collaborating physician.
6. Submission of any other relevant documents requested by the Committee in support of application.

B. RENEWAL

1. The Certificate for full independent practice authority shall be renewed every three years by submitting the required application and corresponding fee.
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HISTORY: Adopted:



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

Renee Mallory, RN, Interim Secretary of Health

Sue A. Tedford, MNsc, APRN, Director

EXECUTIVE SUMMARY

PROPOSED RULE: Arkansas State Board of Nursing Rules Chapter 11

PURPOSE

To delineate the parameters in which the Full Independent Practice Credentialing Committee will function.

BACKGROUND

Initial rules for this Committee are required due to Act 412 of 2021.

KEY POINTS

The proposed rules:

- Identify specific functions of the Committee
- Identify requirements for application for full independent practice
- Establish fees

DISCUSSION

The rules were created due to Act 412 of 2021

RECOMMENDATION

We recommend that the proposed amendments to the rules be approved as proposed by the Board.