

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 _____



Arkansas Department of Health

Arkansas State Board of Nursing

1123 S. University Ave., #800 • Little Rock, AR 72204 • (501) 686-2700 • Fax (501) 686-2714

Governor Sarah Huckabee Sanders

Renee Mallory, RN, BSN, Secretary of Health

Jennifer Dillaha, MD, Director

Sue A. Tedford, MNsc, APRN, Director

MEMORANDUM

TO: Legal Notices
Arkansas Democrat-Gazette

VIA EMAIL: legalads@ardemgaz.com

FROM: Leslie Suggs, Executive Assistant to the Director

DATE: February 7, 2024

RE: Legal Notice

Please run the following ad for three (3) consecutive days, beginning Saturday, February 10, 2024.

NOTICE OF AMENDING THE ARKANSAS STATE BOARD OF NURSING RULES

On Wednesday, February 28, 2024, at 10:30 a.m., the Arkansas State Board of Nursing (ASBN) will hold a public hearing in the ASBN Boardroom located at 1123 S. University Ave., Suite 312, in Little Rock, Arkansas, regarding the proposed revisions to the following:

ASBN Rules:

Chapter One- General Provisions

Chapter Two- Licensure: RN, LPN, and LPTN

Chapter Seven- Rules of Procedure

Chapter Eight- Medication Assistant-Certified

*Chapter Nine- Insulin, Glucagon, and Medication for Adrenal Insufficiency
or Adrenal Crisis*

Chapter Ten- Alternative to Discipline

Chapter Eleven- Full Independent Practice Credentialing Committee

Copies of the proposed *Rules* are available at the ASBN office or you may view them at www.arsbn.org. Written comments should be submitted to the Director, Arkansas State Board of Nursing, 1123 South University Ave.; Suite 800, Little Rock, AR 72204; no later than Friday, March 8, 2024.

Please email me at Leslie.Suggs@arkansas.gov to confirm that you received this notice and that it will begin running on Saturday, February 10, 2024, for three (3) consecutive days. Thanks for your kind assistance.



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MEMORANDUM

DATE: February 7, 2024

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 Seven- Rules of Procedure
Chapter Eight- Medication Assistant-Certified
Chapter Nine- Insulin, Glucagon, and Medication for Adrenal Insufficiency or
Adrenal Crisis
Chapter Ten- Alternative to Discipline
Chapter Eleven- Full Independent Practice Credentialing Committee

Our public comment period concerning this matter ends on March 8, 2024. A public hearing at our office is scheduled to take place on February 28, 2024, at 10:30 a.m.

Following is a summary of the proposed changes:

Chapter 1

The definition of *Full Practice Authority/Full independent Practice* was updated to align with the changes from Act 872 of 2023; definition of *Program Outcomes* was added to aid consistency in measurement by Arkansas nursing education programs; and updated the rules to reflect current fees charged to licensees.

Chapter 2

Definition of terms and editorial changes were made for clarification and to align with Nurse Licensure Compact (NLC), "means" replaced "is"; (ICNLCA) was added; removed the definition of "Covert"; "terminate the active status" replaced "change the status"; "in a party state" was added; "Executive", "of the ICNLCA" and "approved to perform duties as delegated by the Commission" was added; "referred to in Article IV of the Interstate Commission of Nurse Licensure Compact Administrators Bylaws" was removed; "as defined in Article II e" was added; "any" replaced "a"; "the existence of" was added to clarify to the public that the investigative information is not in the data system; "determine" was replaced by "ascertain", "and member board notifications related to" was added; "and any" was replaced with "or" to align with statute and provide clarification; added new rule that defines full party state participation in the coordinated licensure system required by statute; "Date" was removed; "shall be" replaced "was";

Chapter 2 (cont.)

provision was amended to take into consideration the completion of the transition to the enhanced compact while maintaining an explanation for the licenses which remain in force from the prior compact; provision was amended to clarify that the legacy clause does not pertain to a licensee who changes primary state of residence after the implementation date; deleted the sections numbered 2, 3, and 4 as they are no longer relevant; "Recognition of" and "After January 19, 2018" was removed from title and "Implementation By" was added; "The Executive Director shall notify" was added and "shall be notified by the Commission" was removed to align with current language; "within twelve (12)" replaced "six (6)" to assists states in providing more time to gather the necessary information for implementation; "Executive" "the new party" "the new home" "remote" was added; "new state" "a Compact" "That was not a member of the prior Compact" "a party" "all other" "another party state" was removed to align with current language; "Multistate" was added, "multistate licensee" replaced "nurse", "within 60 days" replaced section; Section was moved to improve re readability; "party state shall" "identify a license" was added and "license issued by a party shall be" "identified" was removed; Sections were removed as they are in statute; "home state" was replaced with "primary state of residence" to align with military statutory requirements; "the" was removed "a new party state's: added; "request" "and all party state Compact Administrators shall be informed of the result" was removed ; "contact the Executive Director to request" "through the Executive Director" was added to align with current language; removed duplicate rule as covered in ACA 17-3-102; changed "expedited" to "automatic"; and added education and national certification and removed the one-year limitation for veteran application per Act 137.

Chapter 7

Added two application types "prescriptive authority, full practice authority or" into the definition of fraud and deceit (full practice authority and prescriptive authority) to include all application types received by the Board of Nursing.

Chapter 8

To align rules with current statute editorial correction to reference correct act was made; Deleted section due to the Advisory Committee being dissolved by Act 365 of 2023; to align rules with current statute, changed "expedited" to "automatic"; renumbered and technical corrections (substituted certification for licensure); Added education and national certification and removed the one-year limitation for veteran application per Act 137 of 2023.

Chapter 9

Chapter title was updated to align rules with statue and Board of Education rules removing "and" "administration", adding "and medication for adrenal insufficiency or adrenal crisis"; removed Sections to align with the State Board of Education rules; "and the Arkansas State Board of Nursing's authority" "6-18-718" "and medication for adrenal insufficiency or adrenal crisis" "student" were added; "25-15-201 et seq" "and" "to Arkansas public school students diagnosed with diabetes" were removed to align with the State Board of Education rules and Act 1050 of 2021; definitions for Adrenal Crisis, Adrenal Insufficiency, Diabetes, Emergency Dose Medication, Licensed Healthcare Practitioner, Non-scheduled Dose of Insulin, Scheduled Dose of Insulin,

Chapter 9 (cont.)

and Stress Dose Medication were added to align with the State Board of Education rules and Act 1050 of 2021; definitions of Emergency Situation, Glucagon, Insulin, Licensed School Nurse Employed by a School District, and Trained Volunteer School Personnel were updated to align with the State Board of Education rules; “and/or” is replaced with “or both”, “administer” replaces “provide”, “injections”, “Arkansas Department of Education”, “review”, and “Division of Elementary and Secondary Education” are removed; “student’s individualized Healthcare Plan” replaces “health plan”, “volunteer” “are designated as care providers and” are removed and “have volunteered and been” is added; “written authorization of the student’s parent, guardian, or person acting in loco parentis” replaces “parent’s or guardian’s signed authorization”; “who are designated as care providers and trained to administer insulin and/or glucagon” is removed; “only” is moved and “such” is deleted; “trained to administer insulin and/or glucagon for each school is removed to align with the State Board of Education rules; and Sections were added to align with the State Board of Education rules and Act 1050 of 2021.

Chapter 10

All references to “licensee” were changed to “individual”; added “certification” by the Board of Nursing in addition to licensure; deleted the term “nursing” in reference to practice type; changed “licensee” to “participant”; and changed the term “nurse” to “individual”.

Chapter 11

To align with Act 872 of 2023 added “Clinical Nurse Specialist” to qualified license types; updated definition of Full Independent Practice Authority to include Clinical Nurse Specialist; added the definition of Clinical Nurse Specialist; “collaborative practice” was deleted and “board required” “with a physician” was added to align with Act 872; and clarification of requirements for APRNs who have practiced in another state or territory was added.

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CHAPTER TEN ALTERNATIVE TO DISCIPLINE

SECTION I QUALIFICATIONS FOR ADMISSION

In order to be eligible for admission to the ATD program the individual ~~licensee or applicant for licensure~~ shall:

- A. Hold an Arkansas nursing license, or certificate or be eligible for licensure or certification;
- B. Otherwise be eligible for continued licensure or certification under the Arkansas *Nurse Practice Act*;
- C. Acknowledge a drug or alcohol abuse problem or addiction; and
- D. Voluntarily request participation in the ATD program.
- E. A participant may transfer from another state's alternative program if it is substantively similar and approved by the ATD program director.

HISTORY: Adopted: January 1, 2018
Amended: July 1, 2020; **2023**

SECTION II DENIAL TO PROGRAM

~~Licensees or applicants for licensure~~ Individuals will be denied participation in the ATD program if they:

- A. Do not meet the qualifications listed in Section I;
- B. Diverted controlled substances for reasons other than self-administration;
- C. Engaged in behaviors resulting in patient harm;
- D. Have prior discipline by any board of nursing for substance abuse or diversion; or
- E. Demonstrated unsuccessful participation resulting in termination from the Arkansas ATD program or similar program offered in another jurisdiction.

HISTORY: Adopted: January 1, 2018
Amended: 2023

SECTION III REQUIREMENTS FOR PARTICIPATION

The participant shall:

- A. Agree to immediately place licensure or certification on inactive status;
- B. Complete an in-depth psychological and addictive evaluation by a Board approved evaluator;
- C. Agree to complete all treatment recommendations, if any, of the evaluator;
- D. Admit, in writing, to violation of the Arkansas *Nurse Practice Act*;
- E. Enter into an ATD program contract;
- F. Execute any release necessary to give the ATD program director access to records, including but not limited to medical, employment and criminal records; and
- G. Agree to not practice ~~nursing~~ without written authorization from the ATD program director.

HISTORY: Adopted: January 1, 2018
Amended: 2023

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SECTION IV STANDARDS FOR APPROVED EVALUATORS AND TREATMENT PROVIDERS

- A. Board approved evaluators shall meet the following standards:
 - 1. Be a physician, psychiatrist, psychologist, or mental health certified Advanced Practice Registered Nurse who is engaged in the treatment of substance use disorder, including alcohol;
 - 2. Demonstrate the ability to perform an examination to include a detailed history with the appropriate testing i.e. drug screens and other psychological testing as indicated;
 - 3. Cooperate and communicate with the ATD program director; and
 - 4. Submit evaluation reports according to Board approved criteria.
- B. Board approved treatment providers shall meet the following standards:
 - 1. Provide outpatient and/or inpatient treatment;
 - 2. Cooperate and communicate with the ATD program director;
 - 3. Submit individualized written plan of care to include, but not limited to, assessment, diagnosis, treatment goals, discharge criteria, and recommendations for continuing recovery; and
 - 4. Meet all regulatory requirements in their respective state.

HISTORY: Adopted: January 1, 2018

SECTION V DISCHARGE FROM PROGRAM

- A. A participant shall be discharged from the ATD program upon:
 - 1. Successful completion of all terms and conditions of the ATD program contract; or
 - 2. Demonstration of noncompliance with the terms and conditions of the contract.
- B. If discharged from the ATD program for noncompliance, the ~~licensee~~ **participant** shall immediately surrender their licensure or certification, accept a consent agreement, or be scheduled for a Board hearing.
- C. Participation in the ATD program does not preclude the Board from commencing any disciplinary action against a participant who is discharged from the ATD program or receives additional complaints.
- D. A participant may transfer to another state's alternative program if it is substantively similar and approved by the Arkansas ATD program director.
- E. If the participant voluntarily withdraws from the program, he/she shall immediately surrender his/her license or certification ~~nursing licensure~~.

HISTORY: Adopted: January 1, 2018
Amended: 2023

SECTION VI REPORTING TO THE BOARD

The ATD program director shall make the following information available to the board:

- A. Names and results of any contact or investigation regarding an impaired individual ~~nurse~~ who is believed to be a danger to the public;
- B. Names of participants who:
 - 1. Fail to comply with the terms and conditions of the contract;
 - 2. Refuse to cooperate with the ATD program director; or
 - 3. Voluntarily withdraw or involuntarily discharge from the program;
- C. An annual evaluation of the program; and

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D. Other information and data as requested by the Board.

HISTORY: Adopted: January 1, 2018
Amended: 2023

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