

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 _____

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

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? Amendment to rule due to Act 137, to add consideration of national
certifications for military licensure.
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

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

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

6. Is this rule required to comply with a *state* statute or rule? Yes No

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

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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

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

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

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

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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

\$ _____

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.

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ARKANSAS STATE BOARD OF PHYSICAL THERAPY RULES

I. Officers and Meetings

A. Officers shall:

1. Consist of a chairperson and a secretary/treasurer, each of whom shall have the privilege of re-election.
2. Officers shall be elected annually in July, unless otherwise determined by the Board.

B. Duties of Officers:

1. The chairperson shall:
 - a. Call and preside at all meetings. In the absence of the chairperson, he/she shall designate a member to preside.
 - b. Be custodian of all records or designate a custodian of all records.
 - c. Delegate duties to Board members.
 - d. Vote on all issues.
2. The secretary/treasurer shall:
 - a. Ensure that accurate minutes of each meeting are kept and distributed to each Board member.
 - b. Supervise disbursement of Board funds.

C. The location of the office of the Board shall be designated by the Board.

D. Meetings:

1. Special meetings may be called at the discretion of the chairperson, or by two members of the Board, provided that all members are adequately notified.
2. All meetings shall be conducted pursuant to the Arkansas Freedom of Information Act and disciplinary proceedings shall be conducted in accordance with the Arkansas Administrative Procedures Act.
3. Three (3) members shall constitute a quorum.

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4. A majority vote of a quorum carries.

E. Information for Public Guidance:

1. The Board makes available a list of persons holding certain responsibilities for handling FOIA requests, licensing questions, and complaints against licensees so that the public may obtain information about the Board or make submissions or requests. The names, mailing addresses, telephone numbers, and electronic addresses can be obtained from the Board's website at www.arptb.org.
2. The Board has a list of official forms used by the Board and a list of all formal, written statements of policy and written interpretative memoranda, and orders, decisions and opinions resulting from adjudications, which may be obtained from the Board's office or website.

II. Definitions

For purposes of Ark. Code Ann. §§ 17-93-101 et seq. and these Rules, the following terms shall mean:

1. "FSBPT" means The Federation of State Boards of Physical Therapy.
2. "Mobilization" is a passive movement accomplished within the normal range of motion of the joint. It is a manual therapy technique comprising a continuum of skilled passive movements to the joints and/or related soft tissues that are applied at varying speeds and amplitudes, including a small-amplitude/high-velocity therapeutic movement.
3. "Readily available for consultation" is the ability to be reached in person or by telecommunications within 30 minutes.
4. "Spinal manipulation and adjustment" is movement of the spinal joints beyond the normal range of motion.

III. Requirements for Licensure

- A. An individual who plans to practice as a Physical Therapist or Physical Therapist Assistant must secure a license prior to practicing in the state.
- B. Credentials required for application for initial licensure are to be submitted to the Arkansas State Board of Physical Therapy as follows:
 1. The Board shall receive an official transcript transmitted from the Office of the Registrar, or its designee, of a professional physical therapy /physical therapist assistant education program accredited by a national accreditation agency approved by the Board.

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2. The applicant shall submit an official Board application that is completed in full and the contents sworn under oath as being true and correct.
 3. Application requirements must be completed and received by the Board before an applicant is approved to take the examination described in Section IV.B., except that, in lieu of the official transcript described in Section III.B.1, an applicant may take the examination if the Board can confirm through FSBPT (or another Board-approved entity) that the applicant has completed all requirements for graduation.
- C. All applicants shall pay the required fees.
- D. All applicants must pass a jurisprudence exam approved by the Arkansas State Board of Physical Therapy.
- E. The Board shall require each initial applicant to submit to a background check in accordance with Ark. Code Ann. § 17-93-303 for Physical Therapist applicants or Ark. Code Ann. § 17-93-304 for Physical Therapist Assistant applicants.
- F. Pre-Licensure Criminal Background Check
1. 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.
 2. The individual must obtain the pre-licensure criminal background check petition form from the Board.
 3. The Board will respond with a decision in writing to a completed petition within a reasonable time.
 4. The Board's response will state the reason(s) for the decision.
 5. All decisions of the Board in response to the petition will be determined by the information provided by the individual.
 6. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
 7. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.
- G. Waiver Request
1. If an individual has been convicted of a felony offense, 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:
 - a. An affected applicant for a license; or
 - b. An individual holding a license subject to revocation.
 2. The Board may grant a waiver upon consideration of the following, without limitation:

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- a. The age at which the offense was committed;
 - b. The circumstances surrounding the offense;
 - c. The length of time since the offense was committed;
 - d. Subsequent work history since the offense was committed;
 - e. Employment references since the offense was committed;
 - f. Character references since the offense was committed;
 - g. Relevance of the offense to the occupational license; and
 - h. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
3. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
 4. The Board will respond with a decision in writing and will state the reasons for the decision.
 5. An appeal of a determination under this section will be subject to the Administrative Procedures Act §25-15-201 *et seq.*
- H. 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.”

IV. Methods of Licensure

A. Licensure by Reciprocity

1. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:
 - a. The applicant shall hold a substantially similar license in another United States’ jurisdiction.
 - i. A license from another state is substantially similar to an Arkansas Physical Therapy / Physical Therapy Assistant license if the other state’s licensure qualifications require a licensee to graduate from a Physical Therapy /Physical Therapist Assistant education program accredited by a national accreditation agency approved by the Board.
 - ii. The applicant shall hold his or her occupational licensure in good standing;
 - iii. 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;
 - iv. The applicant shall not hold a suspended or probationary license in a United States’ jurisdiction;
 - b. The applicant shall be sufficiently competent in the field of physical therapy as described in Section IV.A.2.c.; and

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- c. The applicant shall meet the Board's least restrictive requirements, which are described in Section IV.A.2.d.
- 2. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
 - a. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:
 - i. Evidence of current and active licensure in that state. The Board may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other state's licensing board or from FSBPT (or another Board-approved entity); and
 - ii. Evidence that the other state's licensure requirements match those listed in IV.A.1.a.i. The Board may verify this information online or by telephone to the other state's licensing board or from FSBPT (or another Board-approved entity).
 - b. To demonstrate that the applicant meets the requirement in IV.A.1.a.ii. through iv., the applicant shall provide the Board with:
 - i. The names of all states in which the applicant is currently licensed or has been previously licensed;
 - ii. 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 has not had his license revoked for the reasons listed in IV.A.1.a.iii. and does not hold a license on suspended or probationary status as described in IV.A.1.a.iv. The Board may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other state's licensing board.
 - c. As evidence that the applicant is sufficiently competent in the field of physical therapy, an applicant shall provide the Board with evidence from FSBPT (or another Board-approved entity) that a physical therapy applicant has passed the National Physical Therapy Examination ("NPTE") or that a Physical Therapist Assistant applicant has passed the NPTE-PTA.
 - d. As evidence that the applicant meets the Board's least restrictive requirements, an applicant shall:
 - i. Take and pass an Arkansas jurisprudence exam; and
 - ii. Submit to a background check in accordance with Ark. Code Ann. § 17-93-303 for Physical Therapist applicants or Ark. Code Ann. § 17-93-304 for Physical Therapist Assistant applicants.
- 3. Temporary and Provisional License

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- a. The Board shall issue a temporary and provisional license upon request immediately upon receipt of the required fee and the documentation required to show that the applicant has a license from another jurisdiction that is in good standing and is substantially similar to an Arkansas Physical Therapy / Physical Therapist Assistant license.
- b. An applicant shall submit a completed application with all required remaining documentation in order to receive a license.
- c. The temporary license shall be effective for 90 days or until the Board makes a decision on the application, whichever occurs first.

B. Licensure by Examination

1. Applicants who comply with qualifications in accordance with the Arkansas Physical Therapy Practice Act shall be permitted to sit for examination.
2. Form of Examination
 - a. The Board selects and approves the National Physical Therapy Examination ("NPTE") for Arkansas Physical Therapist applicants and the NPTE-PTA for Arkansas Physical Therapist Assistant applicants.
 - b. The examination will be administered by Prometric or another Board-approved examination administrator. Written guidelines and procedures will be provided at time of application.
 - c. The examination must be completed by the date provided by FSBPT (or another Board-approved entity) or a portion of the fee will be forfeited.
3. Passing Level
 - a. For each examination given on or after March, 1996, a passing score will be established by FSPBT.
4. Scoring and Reporting of Examinations
 - a. Results of the examinations will be kept on file by the Board.
 - b. Examination scores will be reported directly to each candidate by the Board.
5. Failure to Pass Examination
 - a. A candidate who fails to pass the examination will be notified. The candidate is ineligible for a license in Arkansas as a Physical Therapist or a Physical Therapist Assistant until the examination is passed.
 - b. Upon payment of an appropriate fee, applicants who do not pass the examination after the first attempt may re-take the examination one (1)

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additional time without re-application for licensure. This must occur within six (6) months from the first failure.

- c. Prior to being approved by the Board for each subsequent test beyond two (2) attempts, individuals shall re-apply and demonstrate evidence satisfactory to the Board of having successfully completed additional education. Additional education may be one or more of the following:
 - 1. A commercial review course.
 - 2. An individual tutorial. The completed tutorial must be signed by the tutor and include the tutor's curriculum vitae. If the applicant is applying for a PT license, the tutor must be a licensed PT. If the applicant is applying for a PTA license, the tutor must be a licensed PT, or a licensed PTA.
 - d. An applicant may not sit for the exam more than six (6) times without approval from both the Board and FSBPT (or another Board-approved entity).
- C. Licensure for Active Duty Service Members, Returning Military Veterans, and Spouses
- 1. As used in this subsection,
 - a. "Uniformed service veteran" means:
 - i. An active or reserve component member of the United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space force, or National Guard;
 - ii. An active component member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or
 - iii. An active or reserve component member of the United States Commissioned Corps of the Public Health Service; and
 - b. "Uniformed service veteran" means a former member of the United States Uniformed Services discharged under circumstance other than dishonorable.
 - 2. The Board shall grant expedited licensure to an individual who is:
 - a. A uniformed service member stationed in the State of Arkansas;
 - b. A uniformed service veteran who resides in or establishes residency in Arkansas;
 - c. The spouse of:
 - i. A person under C.2. i. or ii. above;
 - 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

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residency in the state.

3. The Board shall grant such expedited licensure upon receipt of all the below:
 - a. Payment of the initial licensure fee;
 - b. An application showing the applicant meets the licensure requirements, including passing the required examinations, in the Board's statutes and rules;
 - c. Evidence that the applicant is a qualified applicant under subsection C.2., above;
 - d. Results of a background check in accordance with Ark. Code Ann. § 17-93-303 for Physical Therapist applicants or Ark. Code Ann. § 17-93-304 for Physical Therapist Assistant applicants, if the background check does not reveal a felony conviction.

4. Military Temporary

- a. The Board's Director shall issue a temporary license immediately upon receipt of the documentation required under subsection C.3.a., b, and c., above.
- b. The temporary license shall be effective for 90 days or until the Board receives the results of the background check described in subsection C.3.d. above.

5. 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.

6. 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.

7. The board shall accept relevant and applicable uniformed service education, training, national certification, or service-issued credential toward licensure qualifications or requirements when considering an application for initial licensure of an individual listed in subsection (2) above.

- D. Licensure under Physical Therapy Licensure Compact
Any person who desires to exercise the privilege to practice under the Physical Therapy Licensure Compact must complete the terms and provisions of the compact as prescribed in Ark. Code Ann. § 17-93-501, et seq.

V. Foreign-educated Physical Therapists & Physical Therapist Assistants

- A. The foreign-educated Physical Therapist or Physical Therapist Assistant is required to be eligible for licensure or authorized to practice without limitation in their home country. The applicant must provide written proof that the applicant's

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school of physical therapy is recognized by its own ministry of education or equivalent agency.

- B. Any foreign-educated Physical Therapist or Physical Therapist Assistant who plans to practice in Arkansas shall submit all credentials set forth in Section III of these rules.
- C. The foreign-educated Physical Therapist or Physical Therapist Assistant must also submit the following:
 - 1. Credentials evaluation statement from a credentials evaluation agency approved by the Board.
 - 2. Results from an English proficiency examination if the applicant's native language is not English. Both the examination and acceptable score on examination must be approved by the Board. The test must include both written and oral sections.

VI. Renewals and Reinstatement

- A. Licenses must be renewed annually by March 1. Physical Therapists and Physical Therapist Assistants who have not paid annual renewal fees by March 1 are in violation of the Practice Act and shall not engage in practice. Practice without a valid license is subject to a fine of up to \$1,000 per day.
- B. It is the responsibility of the individual to notify the Board of an address change in writing. The licensee is required to provide written notice to the Board of any change of address within ten working days of the change.
- C. Unrenewed licenses lapse after March 1. To return to regular status, the previous year's continuing education requirements must be met and a late fee and annual renewal fee must be paid.
- D. Individuals wishing to be placed on inactive status must submit a written request to the Board. To return to regular status, an individual must pay a reinstatement fee, an annual renewal fee, and complete continuing education as described below.
 - 1. A Physical Therapist or Physical Therapist Assistant on inactive status may not engage in the provision of physical therapy services.
 - 2. To return to active status, the applicant must demonstrate completion of continuing education requirements that were missed during the period that the person was inactive, up to a maximum of four (4) units (40 contact hours) for a Physical Therapist and two (2) units (20 contact hours) for a Physical Therapist Assistant.
- E. Physical Therapists and Physical Therapist Assistants will be required to complete appropriate continuing education, which includes passing a

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jurisprudence examination approved by the Arkansas State Board of Physical Therapy for renewal in odd numbered years.

F. Reinstatement under Ark. Code Ann § 17-1-107.

1. Pursuant to Ark. Code Ann. 17-1-107, as amended, the Board shall not require a person who meets licensing requirements to participate in the education or training required as a prerequisite to licensing registration or certification of a new professional in the field.
2. The Board may reinstate the license of a person who demonstrates that:
 - i. He or she was previously licensed, registered, or certified to practice in the field of his or her profession at any time in the State of Arkansas;
 - ii. Held his or her license in good standing at the time of licensing;
 - iii. Did not have his or her license revoked for:
 - a. An act of bad faith;
 - b. A violation of law, rule, or ethic;
 - iv. Is not holding a suspended or probationary license in any state; and
 - v. Is sufficiently competent in his or her field;
 - vi. He or she has completed continuing education requirements that were missed during the period that the person was inactive, up to a maximum of four (4) units (40 contact hours) for a Physical Therapist and two (2) units (20 contact hours) for a Physical Therapist Assistant; and
 - vii. Pays any reinstatement fee required.
3. A person shall not be required to comply with requirements to obtain reinstatement of his or her license if the person meets the requirements for reciprocity.
4. If a criminal background check is required of a person currently holding a license, registration, or certification, then the Board may require a person seeking reinstatement under this section to meet the same criminal background check requirements as the person currently holding a license.

VII. Fees

The fees for various services of the Board are as follows:

A. Physical Therapists:

Application Fee - \$50.00
Endorsement (Reciprocity) - \$100.00
Annual Renewals - \$70.00
Late Fee - \$100

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Jurisprudence Examination Fee - \$10.00
Reinstatement Fee - \$75

B. Physical Therapist Assistants:

Application Fee - \$50.00
Endorsement (Reciprocity) - \$100.000
Annual Renewals - \$45.00
Late Fee - \$100
Jurisprudence Examination Fee - \$10.00
Reinstatement Fee - \$50

C. Miscellaneous Fees and Penalties:

Penalty for Late Continuing Education - \$50.00 per month
Compact Privilege - \$50.00

D. Initial Fee Waiver for Eligible Applicants

1. Pursuant to Act 725 of 2021, an eligible applicant may receive a waiver of the initial license fee. Eligible applicants are applicants who:

- a. 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);
- b. Were approved for unemployment within the last twelve (12) months; or
- c. Have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

2. Applicants shall provide documentation showing their receipt of benefits from the appropriate State Agency.

- a. For Medicaid, SNAP, SSNP, TEA, or LAP, documentation from the Arkansas Department of Human Services (DHS), or current state of residence equivalent agency;
- b. For unemployment benefits approval in the last twelve (12) months, the Arkansas Division of Workforce Services, or current state of residence equivalent agency; or
- c. 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.

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3. Applicants shall attest that the documentation provided under subsection D.2. is a true and correct copy and fraudulent or fraudulently obtained documentation shall be grounds for denial or revocation of license.

VIII. Disciplinary Action

- A. The Board may refuse to license, refuse to renew a license, revoke a license, and/or take other disciplinary action as provided by law regarding any Physical Therapist or Physical Therapist Assistant who is guilty of a felony or any of the acts as set forth in Ark. Code Ann. § 17-93-308. "Unprofessional conduct" pursuant to Ark. Code Ann. Section 17-93-308(a)(3) shall include but not be limited to the following:
1. Engaging in any type of sexual conduct of a verbal or physical nature or engaging in a sexual/romantic relationship, including, but not limited to kissing, sexual contact, and sexual intercourse, with a current patient or with any person who was treated as a patient within the preceding six months. A patient's consent to, initiation of, or participation in the sexual contact or sexual/romantic relationship does not change the nature of the conduct nor the prohibition. This provision shall not prohibit a Physical Therapist or Physical Therapist Assistant from treating any person with whom there has been a preexisting sexual or romantic relationship.
 2. Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.
 3. Failing to adhere to the recognized standards of ethics of the physical therapy profession.
 4. Charging unreasonable or fraudulent fees for services performed or not performed.
 5. Failing to report to the Board any act or omission of a license holder, applicant or any other person who violates the provisions of the Arkansas Physical Therapy Act, as amended.
- B. Each facility offering physical therapy services shall be required to publicly display the name and contact information of the Arkansas State Board of Physical Therapy.
- C. Any person may file a complaint in writing to the Board against any licensed Physical Therapist or Physical Therapist Assistant or unlicensed person in this state, charging said person with having violated the provisions of any part of the Arkansas Physical Therapy Practice Act. The Board may act upon its own motion or upon written complaint. The person named in the complaint will be notified and a response from that individual will be requested.

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D. Re-Licensure for Revoked or Surrendered License

1. No individual who has had his or her license revoked or who has surrendered his or her license while under investigation by the Board will be re-licensed, except on petition made to the Board. The application for re-licensure is not allowed until at least five years after the revocation or surrender of license while under investigation took effect.
2. Following license revocation or surrender of licensure while under investigation, the applicant bears the burden of proving that he or she is rehabilitated, can engage in the conduct authorized by the license without undue risk to the public health, safety, and welfare, and is otherwise qualified for the license pursuant to Ark. Code Ann. §§ 17-93-101 et seq.
3. The Board may impose any appropriate conditions or limitations on a license to protect the public health, safety, and welfare.
4. The Board may require that the person seeking re-licensure take the licensing examination and/or jurisprudence examination.

IX. Physical Therapist Assistant Supervision

- A. The practice of the Physical Therapist Assistant shall be performed only under the supervision of the licensed Physical Therapist who retains moral, ethical, and legal responsibility for patient care.
- B. The supervising therapist must be readily available for consultation, evaluations, and establishment of each program.
- C. In direct consultation with the (supervising) Physical Therapist, the Physical Therapist Assistant may:
 1. Recommend changes in the treatment, plan of care or goals as appropriate.
 2. Within the plan of care, recommend appropriate equipment, assistive devices or modification of architectural barriers.
 3. Within the plan of care, perform appropriate examination procedures.
- D. The Physical Therapist Assistant may alter treatment in response to adverse changes in the patient's physiological state.

X. Physical Therapy Aide Functions

- A. The functions of the Physical Therapy Aide may be performed under the direct supervision of a Physical Therapist or Physical Therapist Assistant. However, the Physical Therapist shall retain moral, ethical and legal responsibility for patient care.

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- B. A Physical Therapy Aide must receive inservice training by a Physical Therapist or Physical Therapist Assistant. Once the aide is trained in treatments which can be completed within the realm of inservice as determined by a Physical Therapist, he/she may perform treatments only under direct supervision by a Physical Therapist and/or Physical Therapist Assistant.
- C. The Physical Therapy Aide may not:
 - 1. change any treatment;
 - 2. perform evaluative and assessment procedures;
 - 3. alter a plan of care or goals.

XI. Continuing Education Requirements

- A. The licensed Physical Therapist must complete, by December 31, in each biennium, two (2) CEUs. CEUs are required to be submitted prior to odd numbered year renewals. Beginning January 1, 2023, for each odd numbered year renewal, licensees are required to maintain continuing education and shall only submit such proof if so requested by the Board pursuant to the audit process.
- B. The licensed Physical Therapist Assistant must complete, by December 31, in each biennium, one (1) CEU. CEUs are required to be submitted prior to odd numbered year renewals. Beginning January 1, 2023, for each odd numbered year renewal, licensees are required to maintain continuing education and shall only submit such proof if so requested by the Board pursuant to the audit process.
- C. Qualifying Continuing Education Units
 - 1. One CEU is defined as 10 contact hours of an accredited course or program. A contact hour is equal to 60 minutes of in-person attendance at a seminar or workshop. Program content must be of clinical application, clinical management, behavioral science, or science.
 - A. No more than 50% of continuing education can be taken through online courses.
 - B. Physical Therapists and Physical Therapist Assistants are required to pass a Board approved jurisprudence exam as part of the required continuing education. The jurisprudence examination is counted as a one hour online course.
 - C. Webinars that are both live and interactive are considered to be in-person attendance.
 - 2. Program content and CEUs accreditation must be approved by the Board or a Board-approved entity. Prior to the renewal due by March 1, 2023 proof of

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continuing education and a completed “Continuing Education Units” form must be submitted to the Board for approval of a program for CEUs and should be submitted within 60 days after course completion. Proof of CEUs may be copies of the original completion certificate. Beginning January 1, 2023 licensees are required to maintain continuing education and shall only submit such proof if so requested by the Board pursuant to the audit process.

3. College or university courses in the area of clinical application, clinical management, behavioral science, science, or scientific research may be accepted. Courses will be credited one (1) CEU for each satisfactorily completed credit hour (grade C or higher). Prior to the renewal due by March 1, 2023 renewal a “Continuing Education Units” form and transcript or grade report must be submitted to the Board office. Beginning January 1, 2023 licensees are required to maintain continuing education and shall only submit such proof if so requested by the Board pursuant to the audit process
4. A licensee who has written an article or research that has been published may submit such work to the Board for consideration of up to one-half the biennium CEU requirement. This request, along with the publication, must be presented to the Board office for Board approval.
5. The Board will not accept as qualifying CEUs previously submitted credit hours.

D. Failure to Comply

1. Licensees failing to complete the CEU requirement by December 31, 2022 must pay \$50.00 per month penalty until continuing education is completed and accepted by the Board.
2. Licensees failing to comply with the CEU requirement by the March 1, 2023 license renewal deadline will not receive license renewal and shall not engage in the provision of physical therapy services.
3. Continuing education audits begin after the renewal due by March 1, 2025. A licensee who fails to comply with continuing education requirements, including the audit process, may be subject to disciplinary action.

E. Continuing Education Audits

1. Beginning with the renewal due by March 1, 2025, all licensees shall certify by attestation, under oath and under penalty of perjury, that the licensee completed the required continuing education, and that the continuing education obtained meets the acceptable continuing education criteria specified.
2. After each odd-numbered year renewal, the Board office shall randomly select 10% of licensees for an audit of continuing education requirements.

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Licensees that are selected for audit will be notified and given twenty (20) days to submit proof of continuing education for the previous biennium.

3. Each licensee is responsible for maintaining proof of continuing education courses for a minimum of four years from the date of completion of the course. Copies of such proof shall be submitted to the Board upon request. Such proof shall include:

- (1) date, place, course title, schedule, presenter(s), etc.,
- (2) number of contact hours for the activity,
- (3) certificate of completion, transcript, or grade report.

XII. Declaratory Orders

A. Purpose and Use of Declaratory Orders

A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from the Board. A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

B. The Petition

The process to obtain a declaratory order is begun by filing with the Arkansas State Board of Physical Therapy a petition that provides the following information:

1. The caption shall read: Petition for Declaratory Order Before the Arkansas State Board of Physical Therapy.
2. The name, address, telephone number, and email address of the petitioner.
3. The name, address, telephone number, and email address of the attorney of the petitioner, if the petitioner has an attorney.
4. The statutory provision(s), Board rule(s), or Board order(s) on which the declaratory order is sought.
5. A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue or which petitioner seeks a declaratory order.
6. The signature of the petitioner or petitioner's attorney.

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7. The date.
8. Request for hearing, if desired.

C. Board Disposition

4. The Board may hold a hearing to consider a petition for declaratory statement. If a hearing is held, it shall be conducted in accordance with the Administrative Procedure Act, A.C.A. §§ 25-15-201 et seq.
5. The Board may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within ninety (90) days of the filing of the petition, the Board will render a final order denying the petition or issuing a declaratory order.

XIII. Amendments to these rules may be proposed by presenting the amendments in writing at any meeting of the Board. If the proposed amendment receives a majority vote of the Board, then the procedures for adoption outlined in the Administrative Procedures Act shall be followed.

1 State of Arkansas

As Engrossed: S2/9/23

2 94th General Assembly

A Bill

3 Regular Session, 2023

SENATE BILL 193

4
5 By: Senators Hill, *Irvin, J. Boyd*

6 By: Representative Eubanks
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE ARKANSAS OCCUPATIONAL LICENSING
10 OF UNIFORMED SERVICE MEMBERS, VETERANS, AND SPOUSES
11 ACT OF 2021; TO ADD CONSIDERATION OF NATIONAL
12 CERTIFICATIONS TOWARD INITIAL OCCUPATIONAL LICENSURE
13 AND EXTEND THE APPLICATION TO SPOUSES; TO ELIMINATE
14 THE ONE-YEAR LIMIT FOR VETERANS TO APPLY SERVICE
15 EDUCATION, TRAINING, OR CERTIFICATIONS TOWARD INITIAL
16 OCCUPATIONAL LICENSURE; AND FOR OTHER PURPOSES.
17

Subtitle

18
19
20 TO AMEND THE ARKANSAS OCCUPATIONAL
21 LICENSING OF UNIFORMED SERVICE MEMBERS,
22 VETERANS, AND SPOUSES ACT OF 2021.
23

24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. DO NOT CODIFY. Legislative intent.

28 It is the intent of the General Assembly to:

29 (1) Add national certifications to be considered toward
30 occupational licensure requirements;

31 (2) Extend application for initial licensure to the spouse of a
32 uniformed service member or a uniformed service veteran; and

33 (3) Remove the one-year limit for veterans to apply service
34 education, training, or certifications toward occupational licensure.
35

36 SECTION 2. Arkansas Code § 17-4-107 is amended to read as follows:



1 17-4-107. Acceptance of uniformed service education, training,
2 national certification, or service-issued credential.

3 An occupational licensing entity shall accept relevant and applicable
4 uniformed service education, training, national certification, or service-
5 issued credential toward occupational licensure qualifications or
6 requirements when considering an application for initial licensure of an
7 individual listed in § 17-4-104 ~~who is:~~

8 ~~(1) A uniformed service member; or~~
9 ~~(2) A uniformed service veteran who makes an application within~~
10 ~~one (1) year of his or her discharge from uniformed service.~~

11
12 /s/Hill

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15 **APPROVED: 2/24/23**
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