

# 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 \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

D. Candidate Qualifications

The following ~~is a list~~ ~~identifies those~~  
~~individuals who qualify of qualifications~~ for the  
state competency exam.

Note: Individuals listed on the LTCF Employment Clearance Registry with a disqualification status due to ~~an~~ substantiated administrative finding of abuse, neglect, misappropriation of resident property or a disqualifying criminal record in accordance with Ark. Code Ann. § 20-38-101 et seq shall not be eligible to take the competency examination.

1. Nursing assistants who were trained in **approved** non-facility programs (career colleges, Vo-Tech schools, proprietary schools, etc.) after January 1, 1989.
2. Nursing assistants who were trained in **approved** facility (nursing homes) programs after July 1, 1989.
3. ~~Registered nurses~~ ~~N~~ or ~~LPN~~ students who have finished the basic nursing course (Introduction to Nursing, Fundamentals of Nursing, etc.). The individual must provide a copy of their school transcript/document showing successful completion of the basic nursing course ~~in order~~  
~~to~~ qualify ~~to take for~~ the state competency test.
4. Registered nurses or licensed practical nurses that have had disciplinary action resulting in suspension, revocation, or voluntary surrender of license due to disciplinary action shall not be allowed an exemption to training or be allowed to challenge the state competency examination.
- 4.5. Home health aides who have met appropriate federal training and/or testing requirements for HHA certification. Verification must show completion of a minimum of 75 hours training and/or federal testing requirements as a home health aide. This provision does not apply to "personal care aides". ~~as their~~ The training requirements of 40 hours ~~to become a personal care aide~~ does not meet the 90 hour requirement

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for the LTCF Nursing Assistant Training Program.~~'s 90 hours or curriculum content.~~

- 5-6. Individuals from other states who can verify completion of a state approved geriatric nursing assistant training program but ~~who~~ were not tested and registered. ~~(If registered in the other state, see Section VIII for reciprocity transfers without further testing.)~~ Verification of course completion rests with the individual and must be submitted to ~~OLTC~~ the DHS designated contractor for approval to take the Arkansas competency test.
7. Nursing assistants whose certification has become inactive based on the recertification requirements (see Section VIII, item ~~DC~~). These individuals shall be required to ~~be retested~~ retake the test for recertification. Permission for retesting shall require an "admission slip" obtained from the testing agency prior to the specified test date.

All other ~~persons~~ individuals trained in programs that have not received approval from the Department as a training provider shall not qualify and shall not be allowed to take the examination. Such programs may include hospitals, emergency medical technicians, medical assistant programs, personal care aides, correspondence courses, independent study or on-the-job training/in-service training as they are not acceptable in lieu of the approved training program.

Per A.C.A. § 17-1-109, the Department shall grant an occupational or professional license to an individual who fulfills the requirements to practice an occupation or profession in this state 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".

E. Certified Nursing Assistant Licensure of Uniformed Service Members, Veterans, and Spouses

To comply with the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021 (Arkansas Code Annotated § 17-4-106), the following rules apply to:

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1. A uniformed service member stationed in the State of Arkansas;
2. A uniformed service veteran who resides in or establishes residency in the State of Arkansas and makes an application within one (1) year of his or her discharge from uniformed service; and
3. The spouse of:
  - a. A uniformed service member stationed in the State of Arkansas;
  - b. A uniformed service veteran who resides in or establishes residency in the State of Arkansas;
  - c. 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; and
  - d. A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

Automatic or Expedited Certified Nursing Assistant (CNA) Licensures. Automatic or Expedited CNA licensures will be provided to current license holders in order to expedite their entry into the workforce of this state by means of reciprocity. Reciprocity may be granted without further training or testing.

- a. The process of reciprocity includes completion of the following with the state Vendor:
  - i. Form 9110AR- Out of State Employment Verification for AR Registry Renewal
  - ii. Form DD214-DD 214/Separation Documents
  - iii. Form DMS-798- Interstate Transfer Form/CNA Reg. Exemption/Reciprocity Request.
  - iv. Image/copy of individuals social security card
  - v. Image/copy of valid US government issued photo

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identification; and

- vi. Proof of service education, training, experience, and service-issued credentials by means of a Joint Service Transcript (JST).
- b. Reciprocity is granted to those who meet the following criteria:
  - i. Completion of a training and competency evaluation program to become registered as a nursing assistant in another state, territory, or district of the United States that meets federal guidelines.
  - ii. A holder in good standings with CNA licensure within a similar scope of practice by another state, territory, or district of the United States.

Temporary or Provisional Certified Nursing Assistant (CNA) Licensures. Temporary or provisional CNA licensures to initial CNA licensure candidates will be provided while expediting full licensure by recognizing uniformed service education, training, experience, and service- issued credentials of uniformed service members and uniformed service veterans applying for initial CNA licensure. The following criteria will be classified as meeting service education, training, experience, and credentials:

- passing the Arkansas Nurse Aide Testing with three (3) given attempts in one hundred eighty (180) days post application.

Extension of License Expiration and Continuing Education Requirements. Extension of license expiration and any continuing education requirements for CNA licensure renewal for a deployed uniformed service member or their spouse will be granted as follows:

- a. An extension of the expiration date of a CNA licensure for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.
- b. An extension from continuing education requirements for one hundred eighty (180) days following the date of the uniformed service member or spouse's return from deployment.

The Department may require evidence of completion of continuing education before granting a subsequent CNA licensure or authorizing

the renewal of a CNA license to allow full or partial exemption from continuing education requirements.

Uniformed service members, veterans and spouses who successfully meet the criteria and standards within these provisions shall be placed on the CNA registry and issued a state certificate. Information regarding Military Member Licensure can be found on the DHS- Division of Provider Services and Quality Assurance website at: <http://humanservices.arkansas.gov/about-dhs/dms/office-of-long-term-care>.

## **FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Human Services

**DIVISION** Division of Provider Services and Quality Assurance

**PERSON COMPLETING THIS STATEMENT** Jason Callan

**TELEPHONE** 501-320-6540 **FAX** \_\_\_\_\_ **EMAIL:** Jason.Callan@dhs.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** Licensure Update Pursuant to Acts 135 and 746

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

\_\_\_\_\_

- (b) The reason for adoption of the more costly rule;

\_\_\_\_\_

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

\_\_\_\_\_

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

\_\_\_\_\_

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

General Revenue	\$ _____
Federal Funds	\$ _____
Cash Funds	_____
Special Revenue	_____

**Next Fiscal Year**

General Revenue	\$ _____
Federal Funds	\$ _____
Cash Funds	_____
Special Revenue	_____

Other (Identify) \_\_\_\_\_

Total \$ \_\_\_\_\_

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	\$ 00.00

**Next Fiscal Year**

General Revenue	\$ _____
Federal Funds	\$ _____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	\$ 00.00

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

**Current Fiscal Year**

\$ 00.00

**Next Fiscal Year**

\$ 00.00

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**

\$ 00.00

**Next Fiscal Year**

\$ 00.00

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.

**Statement of Necessity and Rule Summary**  
**Licensure Updates Pursuant to Acts 135 and 746**

**Statement of Necessity**

The Director of the Division of Provider Services and Quality Assurance amends the Rules for the Arkansas Long Term Care Facility Nursing Assistant Training Program to incorporate Acts 135 and 746 of the 93<sup>rd</sup> General Assembly.

**Rule Summary**

The 93rd General Assembly enacted Acts 135 and 746. Act 746 directs occupational and licensing entities to grant licenses to individuals who hold a Federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known as a “work permit” who fulfil the professional licensing requirements. Act 135 directs occupational and licensing entities to provide automatic or expedited professional licensing to uniformed service members, veterans, and their spouses. DPSQA over sees the licensing of long-term care nursing assistants. To comply with these acts, DPSQA amends the Rules for the Arkansas Long Term Care Facility Nursing Assistant Training Program to incorporate these requirements.

## NOTICE OF RULE MAKING

The Director of the Division of Provider Services and Quality Assurance of the Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rules under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§ 20-10-705 and 25-10-129.

### **Effective January 1, 2022:**

The Director of the Division of Provider Services and Quality Assurance amends the Rules for the Arkansas Long Term Care Facility Nursing Assistant Training Program to incorporate Acts 135 and 746 of the 93<sup>rd</sup> General Assembly. Act 135 allows for the automatic or expedited occupational licensing for uniformed service members, veterans, and their spouses. Act 746 allows a person who holds a Federal Form I-766 “work permit” to obtain an occupational or professional license.

The proposed rules are available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rules at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). All public comments must be received by DHS no later than **November 8, 2021**. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter’s name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-396-6428.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed, and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color, or national origin. 4502035775



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Martina Smith, Director  
Division of Provider Services and Quality Assurance