

# 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](http://www.sos.arkansas.gov)



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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 \_\_\_\_\_

**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 Does this proposed, amended, or repealed rule have a financial impact?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.

## **Statement of Necessity and Rule Summary Licensure for Veterans, Spouses, and Active Military**

### **Statement of Necessity:**

Acts 137 and 457 passed during the 94th Arkansas General Assembly of 2023. Act 137 removes the one-year limit for veterans, their spouses, and active military to apply for service education, training, or certifications towards initial occupational licensure as a Nursing Home Administrator or Nursing Assistant in the State of Arkansas. Act 457 allows for automatic occupational licensure of out-of-state individuals who hold similar licensure from other states, towards initial occupational licensure as a Nursing Assistant in the State of Arkansas.

### **Summary:**

To comply with the Acts, the Division of Provider Services and Quality Assurance amends the Rules for Licensure of Nursing Home Administrators in Arkansas and the Rules for the Arkansas Long-Term Care Facility Nursing Assistant Training Program to incorporate the requirements in the Acts as stated above. Additionally, DPSQA updates the rules to ensure consistent terminology throughout the manuals, to streamline formatting and layout, correct grammatical and typographic errors, modernize webpage links, and to reflect current organizational structure within DPSQA.

## NOTICE OF RULEMAKING

The Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code §§4-25-110, 17-4-104 to -106, 17-7-103 to -105, 20-10-203, 20-38-102, 20-38-112 to -113.

The Director of the Division of Provider Services and Quality Assurance (DPSQA) amends the Rules for Licensure of Nursing Home Administrators in Arkansas and the Rules for the Arkansas Long-Term Care Facility Nursing Assistant Training Program pursuant to Acts 137 and 457 passed during the 94th Arkansas General Assembly of 2023. Act 137 removes the one-year limit for veterans, their spouses, and active military to apply for service education, training, or certifications towards initial occupational licensure as a Nursing Home Administrator or Nursing Assistant in the State of Arkansas. Act 457 allows for automatic occupational licensure of out-of-state individuals who hold similar licensure from other states, towards initial occupational licensure as a Nursing Assistant in the State of Arkansas. DPSQA amends both manuals pursuant to the Acts, and further updates them to ensure consistent terminology, streamline formatting and layout, correct grammatical and typographic errors, modernize webpage links, and reflect current organizational structure within DPSQA. The proposed effective date is July 1, 2024.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Policy and Rules, 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 rule at [ar.gov/dhs-proposed-rules](https://ar.gov/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 **May 13, 2024**. 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 Policy and Rules at 501-320-6428. 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. **4502174733**

Martina Smith, Director  
Division of Provider Services and Quality Assurance



Arkansas Department of Human Services  
Division of ~~Medical Services~~ Office of Long Term Care Provider Services  
and Quality Assurance  
Rules for Licensure of Nursing Home Administrators

July 1, 2024

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c. They are in good standing for one (1) year of an occupational licensure of similar scope of practice issued by another state, territory, or district of the United States; or they have worked:.....	9
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## Authority

The following Rules for the Licensure of Nursing Home Administrators are duly adopted and promulgated by the Arkansas Department of ~~Health and~~ Human Services, Division of Provider Services and Quality Assurance~~Office of Long Term Care~~, pursuant to the authority expressly conferred by ~~Title~~ Arkansas Code § 20-10-203 (b) ~~of the Arkansas Code~~.

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07/01/2024

## Preface

These rules have been prepared for the purpose of establishing nursing home administrator competency as well as criterion for the licensure of nursing home administrators. There exists a relationship between the quality of care and quality of life for residents in a nursing home and the knowledge, skills, and abilities of the nursing home's administrator. —This relationship becomes increasingly apparent as nursing home administrators attempt to implement new and often complex standards of resident care services so that the facilities can participate in the full continuum of care.

The rules are subject to periodic ~~revisions~~revision as new knowledge becomes available that will more fully establish the level of competency necessary for effective nursing home administration.

Rules are limited in their ability to set forth all the attributes necessary for quality administration. Administrators of nursing homes have a responsibility beyond the minimum standards detailed here to continue to enhance their education, experience, and professional growth.

~~S~~The end result of such enhancement will ~~be~~ support the achievement of the achievement of optimal~~um~~ nursing home resident care.

06/01/202201/01/202406/30/2024

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## Section I — Definitions

The following terms are defined for the purpose of these rules:

### **~~A. BOARD~~**

~~Shall mean the Long Term Care Facility Advisory Board.~~

### **B.A. NURSING HOME**

“Nursing home” s~~S~~hall mean a skilled nursing facility (SNF) or a nursing facility (NF) which meets the requirements of 1819 or 1919 of the Social Security Act ~~and/or~~ meets State licensure requirements for a ~~long-term~~long-term care facility.

A nursing home usually provides skilled nursing care, medical services, rehabilitation services, ~~and/or~~ health-related services (or both rehabilitation and health related services) to frail elderly, injured, disabled, or sick persons who require such services on an extended or continuous basis.

### **C.B. NURSING HOME ADMINISTRATOR**

“Nursing home administrator” s~~S~~hall mean a person who administers, manages, supervises, or is in general administrative charge of a nursing home whether such individual has an ownership interest in such home and whether ~~his or her~~their function and duties are shared with one (1) or more individuals.

### **~~A. DEPARTMENT~~**

~~Shall mean the Arkansas Department of Health and Human Services.~~

### **~~— Division~~**

~~Shall mean the Division of Provider Services and Quality Assurance~~

### **D.C. LICENSE**

For the purposes of these rules, “license” shall mean a nursing home administrator's license issued to a qualified individual.

## **E. OFFICE**

~~Shall mean the Office of Long Term Care.~~

## **Section II — Applicant's Qualifications**

### **B.A. CHARACTER**

Applicant for licensure as a nursing home administrator ~~shall be of good moral character and~~ shall abide by the Code of Ethics adopted by the American College of Health Care Administrators. (Attachment A found at). The Office Division of Provider Services and Quality Assurance may deny an applicant ~~for factors evidencing a lack of good moral character or for unethical conduct if they fail to comply with these rules~~ or for any of the reasons listed under Disciplinary Proceedings of these rules.

### **C.B. AGE**

An applicant for licensure as a nursing home administrator shall be at least twenty-one (21) years of age.

### **D.C. HEALTH**

Applicant shall be physically and mentally capable of performing the ~~full-time~~ full-time duties of an administrator of a nursing home (Arkansas Code § 20-10-403). If there are factors that indicate that an individual may not be capable of performing such duties, a physician's certification of health would be required.

### **E.D. EDUCATION**

1. A qualified applicant for licensure as a nursing home administrator shall possess the following education and experience in order to be eligible for testing:
  - a. ~~For an applicant who holds a~~ A b ~~Baccalaureate degree (Bachelor of Science [BS] or Bachelor of Arts [BA]) or higher in Health Care Administration~~ health care administration (HCA) or ~~Long Term Long Term Care Administration~~ long-term care administration (LTCA) with an internship in a nursing home: No additional experience required.
  - b. ~~For an applicant who holds a baccalaureate degree (BA Bachelor of Arts or BS Bachelor of Science) in HCA or LTCA without internship: T~~ three (3) months internship or experience in a nursing home is required.
  - c. ~~For an applicant who holds a baccalaureate degree (BA BACHELOR OF ARTS Bachelor of Arts or BS Bachelor of Science) or higher in Nursing nursing or Business business~~ which included basic core requirements noted under D.2: T three (3) months internship or experience in a nursing home is

- required.
- d. For an applicant who holds a baccalaureate degree (BA Bachelor of Arts or BS Bachelor of Science) -or higher in other field which included basic core requirements noted under D.2: Three (3) months internship or experience in a nursing home is required.
  - e. For an applicant who holds an Associate's degree in HCA or LTCA or an RN registered nurse with an associate degree or diploma which included basic core requirements noted under D.2: Six (6) months internship or experience in a nursing home is required.
  - f. For an applicant who holds an Associate's degree in other field which included basic core requirements noted under D.2: One (1) year internship or experience in a nursing home is required.
2. A minimum of fifteen equivalent semester hours must be satisfied in these basic core requirement areas (three (3) hours per topic): accounting, management, personnel, writing, and resident care. Experience and continuing education credits will be accepted in lieu of education as follows:
- a. College or vocational courses (per credit hour or equivalent):;
  - b. Work experience (six (6) weeks of work experience =equals one (1) credit hour):;
  - c. Credit by examination (CLEP) (credit received):;
  - d. Continuing education credits (ten (10) contact hours =equals one (1) credit hour):or
  - e. Any combination of the above.

#### **F.E. ADMINISTRATOR-IN-TRAINING PROGRAM QUALIFICATIONS**

Applicants who do not meet the educational and experience requirements noted in D.1. and D.2. must meet the qualifications for and complete the requirements of the Administrator-In-Training (A.I.T.) Program as administered by the Office/Department/Department of Human Services. A-

#### **G.F. EQUIVALENT QUALIFICATIONS**

An administrator who holds a current active license on the effective date of these rules shall be deemed to have met qualifications equivalent to those required for new applicants for licensure.

An administrator who holds an inactive license on the effective date of these rules must either a) activate his or her/their license by July 2, 1998, OR b) meet the qualifications required for new applicants for licensure at the time that active status is desired. Reexamination would not be required.

Applicants who are approved for testing prior to the effective date of these rules shall

be deemed to have met qualifications equivalent to those for new applicants for licensure.

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## Section III — Licensure

### A. LICENSURE REQUIREMENT

No person shall administer, manage, supervise, or be in general administrative charge of a nursing home unless ~~he or she is~~they are a licensed nursing home administrator in active status. No nursing home within the State shall operate except under the supervision of a licensed administrator. No administrator shall manage more than one (1) nursing home.

### B. APPLICATION FOR LICENSURE

Applicants for licensure shall file applications under oath with the ~~Department~~Department of Human Services, upon forms prescribed by the ~~Department~~Department of Human Services (Form DMS-7790) and shall pay the required licensure fee, as outlined in ~~Arkansas~~Code Annotated, §20-10-404. The application and fee shall be mailed to the ~~Department~~Department of Human Services at the address provided by the ~~Department of Human Services~~Department or through the means provided by the Department of Human Services. The application must be accompanied by the applicant's criminal background check results; the applicant's criminal background must be, which must be completed by the Arkansas State Police. The applicant is responsible for all costs related to obtaining the criminal background check results. If the application is approved, the applicant has eighteen (18) months from the date of approval to become licensed. Half of the licensure fee shall be refunded to the applicant if the ~~Department of Human Services~~Department denies licensure because (a) the application is not approved, (b) the applicant does not pass the exams, or (c) any other reason deemed appropriate by the Department of Human Services~~Department~~.

Pursuant to Ark.~~Code Ann.~~Arkansas Code § 17-5-104, individuals may be granted a licensing fee waiver if they have been receiving assistance through the Arkansas Medicaid Program, the Supplemental Nutrition Assistance Program, the Special Supplemental Nutrition Program for Women, Infants, and Children, the Temporary Assistance for Needy Families Program, or the Lifeline Assistance Program; or if they were approved for unemployment within the last twelve (12) months; or they have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

The waiver of the initial fee does not include fees for:

- A criminal background check;
- An examination or a test; or
- A medical or drug test.

A signed consent form from the applicant may be required for verification of eligibility.

Administrator applicants must submit proof of completing an Administrator in Training program that is approved by the Department of Human Services Department with their application.

### **C. LICENSURE FOR MILITARY PERSONNEL, VETERANS, AND THEIR SPOUSES**

1. Pursuant to Arkansas Code ~~ann.~~ § 17-4-101 et seq., this rule applies to licensure for uniformed service members, uniformed service veterans, and their spouses as defined below:

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; and

c. The spouse of:

i. A uniformed service member stationed in the State of Arkansas;

ii. A uniformed service veteran who resides in or establishes residency in the State of Arkansas;

iii. 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

iv. A uniformed service member who is killed or succumbs to his or her their injuries or illness in the line of duty if the spouse establishes residency in the state.

#### ~~Automatic NHA Licensure for Military Personnel~~

2. Automatic NHA licensures will be provided to current license holders 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 the following:

i. Completion of an application, prescribed by the Department of Human Services, with all required forms;

ii. Submission of DD214-DD 214/ Separation Documents;

iii. Submission of DMS-7790 Application for Nursing Home

Administrators;

- iv. Submission of an image or /copy of individual's social security card;
- v. Submission of an image or /copy of valid US government issued photo 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 NHA in another state, territory, or district of the United States that meets federal guidelines; and
- ii. A holder in good standing with NHA licensure within a similar scope of practice by another state, territory, or district of the United States.

### 3. Temporary or Provisional Certified Nursing Home Administrator (NHA) Licensure

- a. A temporary or provisional NHA license will be granted to a uniformed service member, or uniformed service veteran, or their spouse while expediting full licensure. The Department of Human Services will take into consideration the education, training, national certification, experience, and service issued credentials of uniformed service members and uniformed service veterans, or their spouse that are applying for initial NHA licensure.

## **D. D. EXTENSION OF LICENSE EXPIRATION AND CONTINUING EDUCATION REQUIREMENTS FOR MILITARY PERSONNEL AND THEIR SPOUSES.**

1. The Department of Human Services Department will extend the expiration date and any continuing education requirements for NHA licensure renewal for a deployed uniformed service member, or their spouse, as follows:

- a. An extension of the expiration date of a NHA license 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's return from deployment.

4.—The Department of Human Services Department—may require evidence of completion of continuing education before granting a subsequent NHA licensure or authorizing the renewal of a NHA licensure to allow full or partial exemption from continuing education requirements.

2.

3. Uniformed service members, veterans, and their spouses who successfully meet the criteria and standards within this provision shall be placed on the NHA registry and issued a state certificate. Information regarding Military Member Licensure can be found on the Department of Human Services DHS— Division of Provider Services and Quality Assurance – Office of Long Term Care – Nursing Home Administrator – Occupational Licensing website. — at: <http://humanservices.arkansas.gov/about-dhs/dms/office-of-long-term-care>

#### **E. AUTOMATIC OCCUPATIONAL LICENSURE OF OUT OF STATE INDIVIDUALS**

—Pursuant to Arkansas Code Annotated § 17-7-101 et. Seq., a Nursing Home Administrator from another state may qualify as a nursing home administrator in Arkansas if they meet the following criteria and provide documentation that reflects:

1. —

a. a.—They do not have a disqualifying criminal offense under Arkansas Code Annotated § 17-3-102 or any additional state law relating to the occupational licensure; or

a.

—b.—They do not have a complaint, allegation, or investigation pending for his or her their occupational activity; or and -

b.

—c.—They are in good standing for one (1) year of an occupational licensure of similar scope of practice issued by another state, territory, or district of the United States; or they have worked:

c.

i. i.——In another state, territory, or district of the United States that does not use an occupational licensure to regulate an occupation or profession but is regulated by occupational licensure in this state; and –

i.

ii. ii.——At least three (3) years in the occupation.

:

—

—

2. An individual who is granted automatic occupational licensure under these Rules shall meet all other occupational licensure requirements for a resident of this state and all renewal requirements of the occupational licensure, including without

limitation a criminal background check and continuing education hours.

3. The Department of Human Services Department may require an applicant to pass an examination.;

4. The Department of Human Services Department shall require an applicant to furnish a bond, financial statement, or proof of insurance coverage if required by state law.

#### **C.F. EXAMINATION FOR LICENSURE**

All initial applicants for nursing home administrator licensure must pass a two (2)-part written examination which shall be so designed and administered as to prove competence in nursing home administration.

An applicant will be tested as to his or hertheir knowledge of the current Domains of Practice as published by the National Association of Boards of Examiners of Long Term Long-Term Care Administrators (NAB) through the use of a national examination which will be approved by the Office of Long-Term Care. A scaled score of one hundred thirteen (113) will be required to pass the national examination.

An applicant will also be tested on his or hertheir knowledge of Arkansas Rules for the operation of nursing homes through the use of an examination developed by the Office of Long-Term Care. A score of seventy (70) will be required to pass the state examination.

If an applicant is unsuccessful on either or both such examinations, he or shethey will be entitled to be reexamined one (1) additional time at his or hertheir expense for such additional examination. After two (2) such successive failures, an applicant must: (a) complete an approved training course in an area proven by test scores to be deficient, (b) be suspended for six (6) months, and (c) reapply before reexamination.

#### **D.G. CONTINUING EDUCATION AND TRAINING**

During each licensure year, active licensed administrators must: (a) participate in twenty (20) clock hours of continuing education at approved workshops, (b) complete six (6) semester hours at an accredited college or university in courses covered by the National Association of Boards of Examiners NAB Domains of Practice, or (c) complete an approved course in nursing home administration as a prerequisite for annual license renewal. Continuing education hours must be applied to the licensure year in which they were obtained and cannot be carried over to the following year.

Workshops and seminars are approved by the Office Division of Provider Services and Quality Assurance based on criteria established by the National Continuing Education Review Service and the National Association of Boards of Examiners of Long Term Long-Term Care Administrators.

An administrator initially licensed after July 2<sup>nd</sup> will not be required to complete continuing education hours to renew his or her their license during the renewal period immediately following. Time spent preparing for the examinations will satisfy the education requirements.

#### **E.H. LICENSURE RENEWAL**

All nursing home administrator licenses expire on July 1 and shall be renewable only by the submission of a renewal application and appropriate fees.

- Active licensees who want seek to continue in active status shall pay the active license fee and submit verification of compliance with continuing education requirements.
- Active licensees who want seek to change to inactive status shall pay the inactive license fee and submit verification of compliance with continuing education requirements.
- Inactive licensees who want seek to remain in inactive status shall pay the inactive license fee. (See Section III "Licensure", Item I "Inactive AdministratorsG.")
- Inactive licensees who want seek to change to active status must contact the Office of Long-Term Care individually for guidance. (See Section III "Licensure", Item I "Inactive Administrators."~~See Section G.~~)

Applications for annual license renewal shall be post-marked no later than July 1<sup>st</sup>. Should the renewal be postmarked July 2<sup>nd</sup> or later, the licensee must pay a designated late charge. Any license not renewed on or before September 1 shall expire effective September 2. The forms can be located at the Department of Human Services – Division of Provider Services and Quality Assurance – Office of Long Term Care – Nursing Home Administrator – Occupational Licensing website–

**NOTE:** Should either due date fall on a Saturday, Sunday, State of Arkansas holiday or federal holiday, the due date shall be the following business day.

A licensee must notify the Office-Division of Provider Services and Quality Assurance immediately of changes in address, in employment, or in any other pertinent information to einsure that renewal forms and other correspondence will reach the licensee in a timely manner. Non-receipt of renewal forms by the licensee, regardless of the reason, may result in non-renewal of an administrator's license. Responsibility for renewal rests with the licensee and the Office-Division of Provider Services and Quality Assurance Division assumes no liability. An applicant who has not received renewal forms-notification by June 1 of each year should contact the Division of Provider Services and Quality Assurance Division at: NHA.Licensure@dhs.arkansas.gov;Office.

## **F. RECIPROCITY**

~~Applicants who are currently licensed in another state and wish to be licensed in Arkansas may be eligible for reciprocity. Reciprocal licensure eliminates the need to retake and pass the NAB/national examination. To qualify for reciprocity, the applicant must meet the same licensure standards required for new applicants. Additionally, the applicant must:~~

- ~~1. Be in good standing in other states where licensed; and~~
- ~~2. Must pass the Arkansas licensure examination.~~

~~Certification by the American College of Health Care Administrators will also be considered as a method of qualifying for reciprocity.~~

~~A temporary license may be requested by applicants licensed in other states who desire immediate employment in Arkansas but who need time to prepare for the Arkansas licensure examination. Applicants who satisfy F.1. above may request in writing this temporary, nonrenewable license for a period not to exceed 120 days. There is a fee for temporary licensure.~~

## **F.I. INACTIVE ADMINISTRATORS**

A licensed administrator who is not administering or managing a nursing home and who does not wish to maintain an active license may keep his or her~~their~~ administrator's license current by completing the renewal application section entitled, "Inactive



Administrators", and by submission of the required inactive license fee.

Effective July 1, 1998, an inactive license will be granted for no more than two (2) consecutive licensure years during which time continuing education hours will not be required. During the third inactive licensure year, the administrator must either complete twenty (20) hours of continuing education or complete an approved course of study on current federal regulations governing the operation of nursing homes and submit documentation with ~~his or her~~their renewal form. The license will automatically expire after three (3) years of inactive status unless such training is completed.

If an inactive administrator chooses to reactivate ~~his or her~~their license, ~~he or she~~they must notify the ~~Office~~ Division of Provider Services and Quality Assurance Division. An administrator who holds an inactive license on the effective date of these rules must either a) activate ~~his or her~~their license by July 2, 1998, OR b) meet the qualifications required for new applicants for licensure at the time ~~that the~~ active status is desired. Reexamination would not be required. The required number of continuing education hours must be obtained prior to reactivation. Failure to notify the ~~Office~~ Division of Provider Services and Quality Assurance Division or to obtain the required continuing education could result in disciplinary action.

#### **G.J. DISCIPLINARY PROCEEDINGS**

The ~~Office~~ Division of Provider Services and Quality Assurance Division may refuse to issue or renew an administrator's license or may take other disciplinary action against a nursing home administrator who fails to perform ~~his or her~~their duties adequately. Inadequate performance which may lead to the imposition of disciplinary actions include, but are not limited to, the following areas:

1. During the time that the administrator was employed by the facility, the facility was subjected to:
  - a. Involuntary closure and transfer of residents;
  - b. Appointment of a temporary manager or receiver;
  - c. A determination of immediate jeopardy to the health and safety of any resident;
  - d. Civil Money Penalties based on annual or complaint surveys;
  - e. Termination from the Medicare or Medicaid programs;
  - f. An extended or partial extended survey resulting in a determination of substandard quality of care; or
  - a.g. Denial of payments for new admissions or denial of all payments.
2. Conviction or finding against the administrator of the ~~misconduct below listed~~ listed below. For purposes of this subsection, a conviction or finding against the administrator concerning any facility or resident, past or current, can form the basis of disciplinary action:



- a. Fraud in the operation of any facility;
- b. Misappropriation or embezzlement of funds from any facility or resident;
- c. Abuse or neglect of any resident;
- d. Purposeful failure to report abuse or neglect of any resident or misappropriation of any resident's property;
- e. Any criminal offense conviction related to the abuse of endangered adults or children; ~~or~~
- f. Failure to protect any resident's rights; ~~or~~
- a.g. Any criminal offense under Arkansas Code § 17-3-102 or any additional state law relating to the occupational licensure.

3. Failure to meet licensure renewal requirements or to participate in required continuing education.

Disciplinary action may include but is not limited to:

- 1. Letter of concern ~~or~~ reprimand;
- 2. Directed ~~inservice~~ in-service training ~~or~~ plan of correction;
- 3. Probation;
- 4. Suspension of license; ~~or~~
- 5. Revocation of license.

#### **H.K. APPEALS**

Disciplinary actions by the ~~Office~~ Division of Provider Services and Quality Assurance which result in suspension or revocation of an administrator's license may be appealed for hearing before the ~~Board~~ Department of Human Services. Rules for appeals before the Board are available from the ~~Office of~~ Following entity ~~Division~~:-

Office of Appeals and Hearings:  
P.O. Box 1437 – Slot S101  
Little Rock, AR 72203-1437,  
501-682-8622  
Fax: 501-682-6605,  
Visit: Department of Human Services

#### **H.L. PENALTIES**

It shall be unlawful for any person to act or serve in the capacity of a nursing home administrator in this State unless such person has been licensed to do so. Any person who violates this requirement shall be guilty of a Class A misdemeanor and upon conviction thereof shall be subject to a fine of not less than one hundred dollars (\$100-~~00~~) nor more than one thousand dollars (\$1000-~~00~~) or imprisonment for not less

than ten (10) days nor more than ninety (90) days or both ~~such~~ fine and imprisonment.

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## Section IV — Severability

If any provisions of these Rules, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of these Rules which can be given effect without the invalid provisions or applications, and to this end the provisions hereof are declared to be severable.

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## Attachment A Code of Ethics

~~PREAMBLE: The preservation of the highest standards of integrity and ethical principalsprinciples specifically proscribed by the code, but also conduct that is inconsistent with its spirit is vital to the successful discharge of the professional responsibilities of all long term\_\_\_\_\_ and purpose. Failure to specify any particular responsibility or practice in this Code of health care administrators. This Code of Ethics has been promulgated by the American\_\_\_\_\_ Ethics should not be construed as denial of the existence of other responsibilities or College of Health Care Administrators (ACHCA) in an effort to stress the fundamental\_\_\_\_\_ practices. Recognizing that the ultimate responsibility for applying standards and ethics rules considered essential to this basic purpose. It shall be the obligation of members to falls upon the individual, the ACHCA establishes the following Code of Ethics to make seek to avoid not only conduct.\_\_\_\_\_ clear its\_\_\_\_\_ expectation of the membership.~~

### ~~Individuals shall hold paramount the welfare of persons for whom care is provided.~~

#### ~~PRESCRIPTIONS: The Health Care Administrator shall:~~

- ~~— Strive to provide to all those entrusted to their care the highest quality of appropriate services possible in light of resources or other constraints.~~
- ~~— Operate the facility consistent with laws, rules, and standards of practice recognized in the field of health care administration.~~
- ~~— Consistent with law and professional standards, protect the confidentiality of information regarding individual recipients of care.~~
- ~~— Perform administrative duties with the personal integrity that will earn the confidence, trust, and respect of the general public.~~
- ~~— Take appropriate steps to avoid discrimination on a basis of race, color, sex, religion, age, national origin, handicap, marital status, ancestry, or any other factor that is illegally discriminatory or not related to bona fide requirements of quality care.~~

#### ~~PROSCRIPTION: The Health Care Administrator shall not:~~

- ~~— Disclose professional or personal information regarding recipients of service to unauthorized personnel unless required by law or to protect the public welfare.~~

### ~~Individuals shall maintain high standards of professional competence.~~

#### ~~PRESCRIPTIONS: The Health Care Administrator shall:~~

- ~~— Possess and maintain the competencies necessary to effectively perform their responsibilities.~~
- ~~— Practice administration in accordance with capabilities and proficiencies and, when appropriate, seek counsel from qualified others.~~
- ~~— Actively strive to enhance knowledge of and expertise in long term care administration through continuing education and professional development.~~

#### ~~PROSCRIPTIONS: The Health Care Administrator shall not:~~

- ~~— Misrepresent qualifications, education, experience, or affiliations.~~
- ~~— Provide services other than those for which they are prepared and qualified to perform.~~

### ~~Individuals shall strive, in all matters relating to their professional functions, to maintain a professional posture that places paramount the interests of the facility and its residents.~~

#### ~~PRESCRIPTIONS: The Health Care Administrator shall:~~

- ~~— Avoid partisanship and provide a forum for the fair resolution of any disputes which may arise in service delivery or facility management.~~
- ~~— Disclose to the governing body or other authority as may be appropriate, any actual or potential circumstance concerning them that might reasonably be thought to create a conflict of interest or have a substantial adverse impact on the facility or its residents.~~

#### ~~PROSCRIPTION: The Health Care Administrator shall not:~~

- ~~— Participate in activities that reasonably may be thought to create a conflict of interest or have the potential to have a substantial adverse impact on the facility or its residents.~~

### ~~Individuals shall honor their responsibilities to the public, their profession, and their relationships with colleagues and members of related professions.~~

#### ~~PRESCRIPTIONS: The Health Care Administrator shall:~~

- ~~— Foster increased knowledge within the profession of health care administration and support research efforts toward this end.~~
- ~~— Participate with others in the community to plan for and provide a full range of health care services.~~
- ~~— Share areas of expertise with colleagues, students, and the general public to increase awareness and promote understanding of health care in general and the profession in particular.~~

~~— Inform the ACHCA Standards and Ethics Committee of actual or potential violations of this Code of Ethics, and fully cooperate with ACHCA's sanctioned inquiries into matters of professional conduct related to this Code of Ethics.~~  
~~*PROSCRIPTION: The Health Care Administrator shall not:*~~  
~~— Defend, support, or ignore unethical conduct perpetrated by colleagues, peers, or students.~~  
~~—~~

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American College of Health Care Administrators

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# ~~American College of Health Care Administrators~~

~~325 South Patrick St. Alexandria, Virginia 22314~~

~~Phone: (888)88-ACHCA~~

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Arkansas Department of Human Services  
Division of Provider Services and Quality Assurance  
Rules for Licensure of Nursing Home Administrators

July 1, 2024

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07/01/2024

## Authority

The following Rules for the Licensure of Nursing Home Administrators are duly adopted and promulgated by the Arkansas Department of Human Services, Division of Provider Services and Quality Assurance, pursuant to the authority expressly conferred by Arkansas Code § 20-10-203 (b).

## Preface

These rules have been prepared for the purpose of establishing nursing home administrator competency as well as criterion for the licensure of nursing home administrators. There exists a relationship between the quality of care and quality of life for residents in a nursing home and the knowledge, skills, and abilities of the nursing home's administrator. This relationship becomes increasingly apparent as nursing home administrators attempt to implement new and often complex standards of resident care services so that the facilities can participate in the full continuum of care.

The rules are subject to periodic revision as new knowledge becomes available that will more fully establish the level of competency necessary for effective nursing home administration.

Rules are limited in their ability to set forth all the attributes necessary for quality administration. Administrators of nursing homes have a responsibility beyond the minimum standards detailed here to continue to enhance their education, experience, and professional growth.

Such enhancement will support the achievement of optimal nursing home resident care.

## Section I — Definitions

The following terms are defined for the purpose of these rules:

### **A. NURSING HOME**

“Nursing home” shall mean a skilled nursing facility (SNF) or a nursing facility (NF) which meets the requirements of 1819 or 1919 of the Social Security Act or meets State licensure requirements for a long-term care facility.

A nursing home usually provides skilled nursing care, medical services, rehabilitation services, or health-related services (or both rehabilitation and health related services) to frail elderly, injured, disabled, or sick persons who require such services on an extended or continuous basis.

### **B. NURSING HOME ADMINISTRATOR**

“Nursing home administrator” shall mean a person who administers, manages, supervises, or is in general administrative charge of a nursing home whether such individual has an ownership interest in such home and whether their function and duties are shared with one (1) or more individuals.

### **C. LICENSE**

For the purposes of these rules, “license” shall mean a nursing home administrator's license issued to a qualified individual.



## Section II — Applicant's Qualifications

### A. CHARACTER

Applicant for licensure as a nursing home administrator shall abide by the [Code of Ethics adopted by the American College of Health Care Administrators](#). The Division of Provider Services and Quality Assurance may deny an applicant if they fail to comply with these rules or for any of the reasons listed under Disciplinary Proceedings of these rules.

### B. AGE

An applicant for licensure as a nursing home administrator shall be at least twenty-one (21) years of age.

### C. HEALTH

Applicant shall be physically and mentally capable of performing the full-time duties of an administrator of a nursing home (Arkansas Code § 20-10-403). If there are factors that indicate that an individual may not be capable of performing such duties, a physician's certification of health would be required.

### D. EDUCATION

1. A qualified applicant for licensure as a nursing home administrator shall possess the following education and experience in order to be eligible for testing:
  - a. For an applicant who holds a baccalaureate degree (Bachelor of Science or Bachelor of Arts ) or higher in health care administration (HCA) or long-term care administration (LTCA) with an internship in a nursing home: No additional experience required.
  - b. For an applicant who holds a baccalaureate degree (Bachelor of Arts or Bachelor of Science) in HCA or LTCA without internship: Three (3) months internship or experience in a nursing home is required.
  - c. For an applicant who holds a baccalaureate degree (Bachelor of Arts or Bachelor of Science) or higher in nursing or business which included basic core requirements noted under D.2: Three (3) months internship or experience in a nursing home is required.
  - d. For an applicant who holds a baccalaureate degree (Bachelor of Arts or Bachelor of Science) or higher in other field which included basic core requirements noted under D.2: Three (3) months internship or experience in a nursing home is required.
  - e. For an applicant who holds an Associate's degree in HCA or LTCA or a registered nurse with an associate degree or diploma which included basic core requirements noted under D.2: Six (6) months internship or experience in a nursing home is required.
  - f. For an applicant who holds an Associate's degree in other field which included basic core requirements noted under D.2: One (1) year internship or experience in a nursing home is required.

2. A minimum of fifteen equivalent semester hours must be satisfied in these basic core requirement areas (three (3) hours per topic): accounting, management, personnel, writing, and resident care. Experience and continuing education credits will be accepted in lieu of education as follows:
  - a. College or vocational courses (per credit hour or equivalent);
  - b. Work experience (six (6) weeks of work experience equals one (1) credit hour);
  - c. Credit by examination (CLEP) (credit received);
  - d. Continuing education credits (ten (10) contact hours equals one (1) credit hour); or
  - e. Any combination of the above.

#### **E. ADMINISTRATOR-IN-TRAINING PROGRAM QUALIFICATIONS**

Applicants who do not meet the educational and experience requirements noted in D.1. and D.2. must meet the qualifications for and complete the requirements of the Administrator-In-Training Program as administered by the Department of Human Services.

#### **F. EQUIVALENT QUALIFICATIONS**

An administrator who holds a current active license on the effective date of these rules shall be deemed to have met qualifications equivalent to those required for new applicants for licensure.

An administrator who holds an inactive license on the effective date of these rules must either a) activate their license by July 2, 1998, OR b) meet the qualifications required for new applicants for licensure at the time that active status is desired. Reexamination would not be required.

Applicants who are approved for testing prior to the effective date of these rules shall be deemed to have met qualifications equivalent to those for new applicants for licensure.

## Section III — Licensure

### A. LICENSURE REQUIREMENT

No person shall administer, manage, supervise, or be in general administrative charge of a nursing home unless they are a licensed nursing home administrator in active status. No nursing home within the State shall operate except under the supervision of a licensed administrator. No administrator shall manage more than one (1) nursing home.

### B. APPLICATION FOR LICENSURE

Applicants for licensure shall file applications under oath with the Department of Human Services, upon forms prescribed by the Department of Human Services and shall pay the required licensure fee, as outlined in Arkansas Code Annotated §20-10-404. The application and fee shall be mailed to the Department of Human Services at the address provided by the Department of Human Services or through the means provided by the Department of Human Services. The application must be accompanied by the applicant's criminal background check results; the applicant's criminal background must be completed by the Arkansas State Police. The applicant is responsible for all costs related to obtaining the criminal background check results. If the application is approved, the applicant has eighteen (18) months from the date of approval to become licensed. Half of the licensure fee shall be refunded to the applicant if the Department of Human Services denies licensure because (a) the application is not approved, (b) the applicant does not pass the exams, or (c) any other reason deemed appropriate by the Department of Human Services.

Pursuant to Arkansas Code § 17-5-104, individuals may be granted a licensing fee waiver if they have been receiving assistance through the Arkansas Medicaid Program, the Supplemental Nutrition Assistance Program, the Special Supplemental Nutrition Program for Women, Infants, and Children, the Temporary Assistance for Needy Families Program, or the Lifeline Assistance Program; or if they were approved for unemployment within the last twelve (12) months; or they have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

The waiver of the initial fee does not include fees for:

- A criminal background check;
- An examination or a test; or
- A medical or drug test.

A signed consent form from the applicant may be required for verification of eligibility.

Administrator applicants must submit proof of completing an Administrator in Training program that is approved by the Department of Human Services with their application.

### C. LICENSURE FOR MILITARY PERSONNEL, VETERANS, AND THEIR SPOUSES

1. Pursuant to Arkansas Code § 17-4-101 et seq., this rule applies to licensure for

uniformed service members, uniformed service veterans, and their spouses as defined below:

- 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; and
  - c. The spouse of:
    - i. A uniformed service member stationed in the State of Arkansas;
    - ii. A uniformed service veteran who resides in or establishes residency in the State of Arkansas;
    - iii. 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
    - iv. A uniformed service member who is killed or succumbs to their injuries or illness in the line of duty if the spouse establishes residency in the state.
2. Automatic NHA licensure will be provided to current license holders 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 the following:
    - i. Completion of an application, prescribed by the Department of Human Services, with all required forms;
    - ii. Submission of DD214-DD 214 Separation Documents;
    - iii. Submission of DMS-7790 Application for Nursing Home Administrators;
    - iv. Submission of an image or copy of individual's social security card;
    - v. Submission of an image or copy of valid US government issued photo 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 NHA in another state, territory, or district of the United States that meets federal guidelines; and
    - ii. A holder in good standing with NHA licensure within a similar scope of practice by another state, territory, or district of the United States.
3. Temporary or Provisional Certified Nursing Home Administrator (NHA) Licensure
  - a. A temporary or provisional NHA license will be granted to a uniformed service member, or uniformed service veteran, or their spouse while expediting full licensure. The Department of Human Services will take

into consideration the education, training, national certification, experience, and service issued credentials of uniformed service members and uniformed service veterans, or their spouse that are applying for initial NHA licensure.

#### **D. EXTENSION OF LICENSE EXPIRATION AND CONTINUING EDUCATION REQUIREMENTS FOR MILITARY PERSONNEL AND THEIR SPOUSES.**

1. The Department of Human Services will extend the expiration date and any continuing education requirements for NHA licensure renewal for a deployed uniformed service member, or their spouse, as follows:
  - a. An extension of the expiration date of a NHA license 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's return from deployment.
2. The Department of Human Services may require evidence of completion of continuing education before granting a subsequent NHA licensure or authorizing the renewal of a NHA licensure to allow full or partial exemption from continuing education requirements.
3. Uniformed service members, veterans, and their spouses who successfully meet the criteria and standards within this provision shall be placed on the NHA registry and issued a state certificate. Information regarding Military Member Licensure can be found on the [Department of Human Services – Division of Provider Services and Quality Assurance – Office of Long Term Care – Nursing Home Administrator – Occupational Licensing website.](#)

#### **E. AUTOMATIC OCCUPATIONAL LICENSURE OF OUT OF STATE INDIVIDUALS**

1. Pursuant to Arkansas Code Annotated § 17-7-101 et. Seq., a Nursing Home Administrator from another state may qualify as a nursing home administrator in Arkansas if they meet the following criteria and provide documentation that reflects:
  - a. They do not have a disqualifying criminal offense under Arkansas Code Annotated § 17-3-102 or any additional state law relating to the occupational licensure;
  - b. They do not have a complaint, allegation, or investigation pending for their occupational activity; and
  - c. They are in good standing for one (1) year of an occupational licensure of similar scope of practice issued by another state, territory, or district of the United States; or they have worked:
    - i. In another state, territory, or district of the United States that does not use an occupational licensure to regulate an occupation or profession but is regulated by occupational licensure in this state; and
    - ii. At least three (3) years in the occupation.

2. An individual who is granted automatic occupational licensure under these Rules shall meet all other occupational licensure requirements for a resident of this state and all renewal requirements of the occupational licensure, including without limitation a criminal background check and continuing education hours.
3. The Department of Human Services may require an applicant to pass an examination.
4. The Department of Human Services shall require an applicant to furnish a bond, financial statement, or proof of insurance coverage if required by state law.

## **F. EXAMINATION FOR LICENSURE**

All initial applicants for nursing home administrator licensure must pass a two-part written examination which shall be so designed and administered as to prove competence in nursing home administration.

An applicant will be tested as to their knowledge of the current Domains of Practice as published by the National Association of Boards of Examiners of Long-Term Care Administrators through the use of a national examination approved by the Office of Long-Term Care. A scaled score of one hundred thirteen (113) will be required to pass the national examination.

An applicant will also be tested on their knowledge of Arkansas Rules for the operation of nursing homes through the use of an examination developed by the Office of Long-Term Care. A score of seventy (70) will be required to pass the state examination.

If an applicant is unsuccessful on either or both such examinations, they will be entitled to be reexamined one (1) additional time at their expense for such additional examination. After two (2) such successive failures, an applicant must: (a) complete an approved training course in an area proven by test scores to be deficient, (b) be suspended for six (6) months, and (c) reapply before reexamination.

## **G. CONTINUING EDUCATION AND TRAINING**

During each licensure year, active licensed administrators must: (a) participate in twenty (20) clock hours of continuing education at approved workshops, (b) complete six (6) semester hours at an accredited college or university in courses covered by the National Association of Boards of Examiners Domains of Practice, or (c) complete an approved course in nursing home administration as a prerequisite for annual license renewal. Continuing education hours must be applied to the licensure year in which they were obtained and cannot be carried over to the following year.

Workshops and seminars are approved by the Division of Provider Services and Quality Assurance based on criteria established by the National Continuing Education Review Service and the National Association of Boards of Examiners of Long-Term Care Administrators.

An administrator initially licensed after July 2<sup>nd</sup> will not be required to complete continuing education hours to renew their license during the renewal period

immediately following. Time spent preparing for the examinations will satisfy the education requirements.

## **H. LICENSURE RENEWAL**

All nursing home administrator licenses expire on July 1 and shall be renewable only by the submission of a renewal application and appropriate fees.

- Active licensees who seek to continue in active status shall pay the active license fee and submit verification of compliance with continuing education requirements.
- Active licensees who seek to change to inactive status shall pay the inactive license fee and submit verification of compliance with continuing education requirements.
- Inactive licensees who seek to remain in inactive status shall pay the inactive license fee. (See Section III "Licensure", Item I "Inactive Administrators.")
- Inactive licensees who seek to change to active status must contact the Office of Long-Term Care individually for guidance. (See Section III "Licensure", Item I "Inactive Administrators.")

Applications for annual license renewal shall be post-marked no later than July 1<sup>st</sup>. Should the renewal be postmarked July 2<sup>nd</sup> or later, the licensee must pay a designated late charge. Any license not renewed on or before September 1 shall expire effective September 2. The forms are located at the [Department of Human Services – Division of Provider Services and Quality Assurance – Office of Long Term Care – Nursing Home Administrator – Occupational Licensing website](#).

**NOTE:** Should either due date fall on a Saturday, Sunday, State of Arkansas holiday or federal holiday, the due date shall be the following business day.

A licensee must notify the Division of Provider Services and Quality Assurance immediately of changes in address, in employment, or in any other pertinent information to ensure that renewal forms and other correspondence will reach the licensee in a timely manner. Non-receipt of renewal forms by the licensee, regardless of the reason, may result in non-renewal of an administrator's license. Responsibility for renewal rests with the licensee and the Division of Provider Services and Quality Assurance assumes no liability. An applicant who has not received renewal notification by June 1 of each year should contact the Division of Provider Services and Quality Assurance at: [NHA.Licensure@dhs.arkansas.gov](mailto:NHA.Licensure@dhs.arkansas.gov)

## **I. INACTIVE ADMINISTRATORS**

A licensed administrator who is not administering or managing a nursing home and who does not wish to maintain an active license may keep their administrator's license current by completing the renewal application section entitled, "Inactive Administrators", and by submission of the required inactive license fee.

Effective July 1, 1998, an inactive license will be granted for no more than two (2) consecutive licensure years during which time continuing education hours will not be required. During the third inactive licensure year, the administrator must either

complete twenty (20) hours of continuing education or complete an approved course of study on current federal regulations governing the operation of nursing homes and submit documentation with their renewal form. The license will automatically expire after three (3) years of inactive status unless such training is completed.

If an inactive administrator chooses to reactivate their license, they must notify the Division of Provider Services and Quality Assurance. An administrator who holds an inactive license on the effective date of these rules must either a) activate their license by July 2, 1998, OR b) meet the qualifications required for new applicants for licensure at the time that the active status is desired. Reexamination would not be required. The required number of continuing education hours must be obtained prior to reactivation. Failure to notify the Division of Provider Services and Quality Assurance or to obtain the required continuing education could result in disciplinary action.

## **J. DISCIPLINARY PROCEEDINGS**

The Division of Provider Services and Quality Assurance may refuse to issue or renew an administrator's license or may take other disciplinary action against a nursing home administrator who fails to perform their duties adequately. Inadequate performance which may lead to the imposition of disciplinary actions include, but are not limited to, the following areas:

1. During the time that the administrator was employed by the facility, the facility was subjected to:
  - a. Involuntary closure and transfer of residents;
  - b. Appointment of a temporary manager or receiver;
  - c. A determination of immediate jeopardy to the health and safety of any resident;
  - d. Civil Money Penalties based on annual or complaint surveys;
  - e. Termination from the Medicare or Medicaid programs;
  - f. An extended or partial extended survey resulting in a determination of substandard quality of care; or
  - g. Denial of payments for new admissions or denial of all payments.
2. Conviction or finding against the administrator of the misconduct listed below. For purposes of this subsection, a conviction or finding against the administrator concerning any facility or resident, past or current, can form the basis of disciplinary action:
  - a. Fraud in the operation of any facility;
  - b. Misappropriation or embezzlement of funds from any facility or resident;
  - c. Abuse or neglect of any resident;
  - d. Purposeful failure to report abuse or neglect of any resident or misappropriation of any resident's property;



- e. Any criminal offense conviction related to the abuse of endangered adults or children;
  - f. Failure to protect any resident's rights; or
  - g. Any criminal offense under Arkansas Code § 17-3-102 or any additional state law relating to the occupational licensure.
3. Failure to meet licensure renewal requirements or to participate in required continuing education.

Disciplinary action may include but is not limited to:

- 1. Letter of concern or reprimand;
- 2. Directed in-service training or plan of correction;
- 3. Probation;
- 4. Suspension of license; or
- 5. Revocation of license.

#### **K. APPEALS**

Disciplinary actions by the Division of Provider Services and Quality Assurance which result in suspension or revocation of an administrator's license may be appealed for hearing before the Department of Human Services. Rules for appeals before the Board are available from the following entity:

Office of Appeals and Hearings:  
P.O. Box 1437 – Slot S101  
Little Rock, AR 72203-1437  
501-682-8622  
Fax: 501-682-6605  
Visit: [Department of Human Services](#)

#### **L. PENALTIES**

It shall be unlawful for any person to act or serve in the capacity of a nursing home administrator in this State unless such person has been licensed to do so. Any person who violates this requirement shall be guilty of a Class A misdemeanor and upon conviction thereof shall be subject to a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000) or imprisonment for not less than ten (10) days nor more than ninety (90) days or both fine and imprisonment.

## Section IV — Severability

If any provisions of these Rules, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of these Rules which can be given effect without the invalid provisions or applications, and to this end the provisions hereof are declared to be severable.

Proposed

**Rules for the  
Arkansas Long Term Care Facility  
Nursing Assistant Training Program**

**Arkansas Department of Human Services**

**Division of Provider Services and  
Quality Assurance**

**1992**

**(Revised ~~January 1~~July 1, 202~~4~~3)**

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Section I AUTHORITY

1. The following rules for the Long Term Care Facility Nursing Assistant Training Program are duly adopted and promulgated by the Department of Human Services pursuant to Arkansas Code 20-10-701 et seq.

This initiative is pursuant to the Federal mandates of Public Law 100-203 (the Nursing Home Reform Act, Subtitle C of the Omnibus Budget and Reconciliation Act of 1987 and technical amendments of OBRA 1989 and 1990) concerning the training and competency examination of nursing assistants employed in long term care facilities and the registry of certified nursing assistants.

2. \_\_\_\_\_

The Federal Omnibus Budget Reconciliation Act of 1987, 1989, 1990, and 1993 (OBRA) and regulations issued by the U.S. Department of Health and Human Services — Centers for Medicare and Medicaid Services (formerly Health Care Financing Administration, or HCFA) established the minimum requirements for nursing assistant training and competency evaluation programs in Section 1819(a) — (f) and 1919(a) — (f) of the Social Security Act.

## Section II

## PURPOSE

1. To develop and approve training and competency evaluation programs for individuals who provide nursing or nursing-related services to residents in long term care facilities and who are not licensed health professionals nor volunteers who provide services without monetary compensations.

2. These requirements are designed to assist long term care facilities and other educational institutions with training and competency programs for nursing assistants. The objective of the Nursing Assistant Training Program is the provision of quality services to residents by nursing assistants who are able to:

- (a) Perform ~~c~~Certified nursing-aide skills and to assist licensed practical nurses or registered nurses in direct resident care;
- (b) Form a relationship, communicate and interact competently on a one-to-one basis with the residents as part of the team implementing resident care objectives;
- (c) Demonstrate sensitivity to residents' emotional, social, and mental health needs through skillful, directed interactions;
- (d) Assist residents in attaining and maintaining functional independence;
- (e) Exhibit behavior in support and promotion of residents' rights; and
- (f) Demonstrate observational and documenting skills needed in support of the assessment of residents' health, physical condition, and well-being.

3. The training program must teach skills to enhance knowledge in promoting healthy functioning of residents both physically and emotionally and focus on the restoration and maintenance of the resident. These attitudes and behaviors of staff must be demonstrated in the facility on a day-to-day basis.

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The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise.

- ~~“Abuse” —The means the~~ willful, knowing, or reckless act of mistreatment of a resident through words or physical action which results in physical, emotional, or mental injury to a resident~~;~~.
- ~~“Act” —means the~~ Public Law 100-203 (the Federal Nursing Home Reform Act, Subtitle C of the Omnibus Budget and Reconciliation Act ~~of 1987~~) ~~of 1987~~ and technical amendments of ~~Omnibus Budget and Reconciliation Act of OBRA-~~ 1989 and 1990. ~~“Act” may Aalso, may~~ refer to ~~the Long-Term Care Aide Training Act,~~ Arkansas Code ~~§ 20-10-701 et seq.~~.
- ~~“Additional Instructor” —A means a —RN—registered nurse (RN) or LPN—~~ ~~licensed practical nurse (LPN)~~ who, under the general supervision of the ~~Primary Instructor~~ ~~primary instructor~~, may provide classroom and skills training~~;~~.
- ~~“Centers for Medicare & and Medicaid Services (CMS)” means a —A~~ federal agency that oversees programs including Medicare, Medicaid, the ~~Children’s Health Insurance Program, (CHIP),~~ and the state and federal health insurance marketplaces~~;~~.
- ~~“Certified Nursing Assistant (CNA)” (†)—I means~~ individuals trained and certified to help nurses by providing ~~non-medical~~ ~~nonmedical~~ assistance to patients, such as help with bathing, dressing, and using the bathroom~~;~~.
- ~~“Competency Examination” means —A~~ an examination that includes manual (skills) and written (or oral component for those with limited literacy skills) evaluations~~;~~.
- ~~“Department” means the —The Arkansas Department of Human Services (DHS);.~~
- ~~“Division” means the —The Division of Provider Services and Quality Assurance within the Department of Human Services;.~~
- ~~“Educational Institution” means an —An~~ institution that is licensed by the Arkansas State Board of Private Career Education within the Arkansas Division of Higher Education as defined by Acts ~~1989, No. 906 906 of 1989~~ (examples include but are not limited to ~~i.e.,~~ career colleges ~~and;~~ proprietary schools)~~;~~.

- “Examination” means a ~~A~~ competency examination that includes manual (skills) and written evaluations<sub>;</sub>
- “Facility” means a ~~A~~ long term care facility or ~~/~~ nursing facility (nursing home) licensed by the Office of Long-Term Care. A nursing facility that provides nursing care and supportive care on a twenty-four (24) hour basis to residents. Facility “premises” include all structures and surrounding property<sub>;</sub>
- “Facility bBased pProgram” means a ~~A~~ nursing assistant training program offered by or in a long-term care facility<sub>;</sub>
- “General Nursing-nursing Experience-experience” means ~~e~~ Experience which may include, without limitation, employment in a nursing assistant education program or employment in or supervision of nursing students in a long-term care facility or unit, geriatrics department (excluding a geriatric psychiatry department), long-term acute care hospital, home healthcare, hospice care, or other long-term care setting. (Arkansas Code § 20-10-702(2)(C)(ii); Ann. ~~§20.10.702 (2)I(ii).~~
- “Guest Speaker” means a ~~A~~ registered nurse, licensed practical nurse, or other licensed health professionals who conduct specific classroom lectures based upon an expertise in a given subject area, under the direct supervision of the Primary-primary Instructorinstructor<sub>;</sub>
- Instructor Training Program ~~A train-the-trainer program of instruction in educational teaching techniques and methods for Primary Instructors and Team Instructors approved by the Office of Long-Term Care.~~
- “Licensed Health-health Professional-professional” means a ~~A~~ physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, physical or occupational assistant, registered professional nurse, licensed practical nurse, or certified social worker.
- “Misappropriation of resident property” ~~The~~ means the taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the effective control of a resident or other appropriate legal authority, or the taking of any action contrary to any duty imposed by law prescribing conduct relating to the custody or disposition of property of a resident.
- “Neglect” ~~A~~ means an act of omission or an act without due care which causes physical or emotional harm to a resident or adversely affects the resident’s health, safety, or welfare in any way<sub>;</sub>

- ~~“Non-facility Non-facility -based program”~~ — A means a nursing assistant training program not offered by or in a facility (examples include but are not limited to ~~e.~~, career college, community college, ~~Vocational or technical~~ school, and proprietary schools ~~s, etc.~~);
- ~~“Nursing Assistant assistant”~~ — A means an unlicensed nursing staff member who assists with basic patient care (such as giving baths, checking vital signs, bed-making, and positioning) to residents in a long-term care facility, who has successfully completed a training and/or competency evaluation program, and is competent to provide such services, but not an individual who is a licensed health professional or who volunteers to provide such services without monetary compensation;
- ~~“Office”~~ means the — Nursing Assistant Training Program within the Division of Provider Services and Quality Assurance;
- ~~“Orientation Program-program”~~ — A means a program which provides the nursing assistant with explanations of facility structure, policies, procedures, philosophy of care, description of the resident population, and employee rules. This orientation phase is not included as part of the Nursing Assistant Training Program;
- ~~“Petitioner” is~~ — A a person who appeals a finding that such person has, while acting as a nursing assistant in a facility or while being used by a facility in providing services to a resident, abused or neglected a resident, or has misappropriated a resident’s property;
- ~~“Primary Instructor instructor (PI)”~~ — A means an individual who is a registered nurse licensed in this state to practice, if the registered nurse moves from a state that has joined the Interstate Nurse Licensure Compact, §17-87-601 et seq., to Arkansas and meets all requirements for licensure in Arkansas, does not have any disciplinary action regarding his or her ~~their~~ license by the licensing entity or authority; and possesses a minimum of two (2) years’ general nursing experience as a registered nurse including at least one (1) year of long-term care nursing services in a long-term care facility setting within the last five (5) years (Arkansas Code ~~Ann.~~ §20-10-702);
- ~~“Resident”~~ — Individuals means individuals who reside in long-term care facilities that receive a range of services, including medical and personal care.
- ~~“Skills training”~~ — T means training composed of both skills demonstration in the classroom lab and skills performance in the clinical area with residents in a long-term care facility;
- ~~“Supervised Practical Training practical training”~~ means — P pursuant to 42 C.F.R. 483.152, ~~supervised practical training means~~ training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered nurse or a

licensed practical nurse;

—“~~Task Performance~~ ~~performance Record~~ ~~record~~” —~~A~~ means a list of the major duties and /skills to be learned in the program and the trainee’s performance of each;

- 
- “Trainee” means an —~~An~~ individual who is enrolled in a nursing assistant training program and who is not permitted to perform nursing services for residents during the training period for which they have not been trained and found to be competent;
  - “Virtual instruction or ~~t~~Training” —means a method of teaching that is taught either entirely online or when elements of face-to-face courses are taught online through learning management systems and other educational tools and platforms;

## Section III

## NURSING ASSISTANT TRAINING

GENERAL RULE: A facility must not use any individual working in the facility as a nursing assistant for more than four (4) months (meaning one hundred twenty (120) calendar days) unless that individual has successfully completed a training program and competency examination approved by the ~~Department~~ Department of Human Services as required by ~~CMS~~ the Centers for Medicare and Medicaid Services.

### B.A. Training

1. Nursing assistant training programs must include materials that provide a basic level of both knowledge and demonstrable skills for each individual completing the program.
2. Each course must be prepared and administered in accordance with the training course guidelines prescribed in the “Arkansas ~~LTCF~~ Long-Term Care Facility (LTCF) Nursing Assistant Training Curriculum.” This curriculum is to be used as a guide for conducting in-person or virtual training in both facility and non-facility programs.
3. These guidelines essentially provide the outline for in-person and virtual training programs and can be enhanced by the inclusion of current information to keep training relevant to changing needs. The content provides fundamental information and leaves open the opportunity for an instructor to function as necessary in response to perceived student requirements. **It is important to recognize that the curriculum guidelines identify the limitations (~~i.e., for~~ example, limitations to the scope of practice) of the long-term care facility (LTCF) nursing assistants’ direct care responsibilities.**
4. Each in-person or virtual training program must use the behavioral stated objectives in the “Arkansas ~~LTCF~~ Long-Term Care Facility Nursing Assistant Training Curriculum” for each unit of instruction. These objectives state the measurable performance criteria that serve as the basis for the state competency examination. The instructor shall conduct a review of each unit objective with trainees at the beginning of each unit so that each trainee knows what is expected of them in each part of the training program.
5. Upon successful completion of the required in-person or virtual training, the trainee must pass the state competency examination administered by the ~~Department~~ Department of Human Services (see 20 CAR § 403-501 et seq.) ~~Section VII~~. An individual must complete the state competency examination within twelve (12) months of graduation from a training program or retraining will be required.

### C.B. Implementation Requirements

1. Pursuant to 42 C.F.R. § 483.152, a nurse aide training and competency examination program must include, at a minimum, a combination of classroom (in-person or virtual) and clinical instruction. The requirement for state certification shall include a minimum of ninety (90) hours of training which consist of no less than seventy-four (74) clock hours of training, including sixteen (16) hours of supervised practical training, for a total of ninety (90) hours.

2. The clinical site must be a long-term care facility, skilled nursing unit or rehabilitation unit located in an acute care facility, or inpatient hospice unit which has not been disqualified by restrictions as described in Section IV (B).

3. A minimum of sixteen (16) hours initial classroom (in-person or virtual) instruction is required in Part I. This will include both theory instruction and skills demonstration in the classroom lab. During Part I, the trainee is not allowed on the floor as part of a facility's staffing pattern. After completion of Part I, a trainee may be used in a facility's staffing **pattern but only assigned to duties for which they have demonstrated competency**. Documentation of acceptable performance of all skills and duties shall be on file with the Primary Instructor (see item C of this section – Nursing Assistant Trainee Activities).

4. Parts II and III require the completion of the remaining seventy-four (74) clock hours of training consisting of theory, classroom lab, and clinical skills training. Clinical skills training must include at least sixteen (16) hours of supervised practical training in a facility, performing tasks on an individual under the direct supervision of the instructor. Clinical skills training assignment or supervision by another nursing assistant is prohibited.

~~5.~~ The ratio of trainees to instructors in the in-person or virtual classroom must not exceed twenty-four (24) trainees to one (1) instructor (primary or additional instructor) and the ratio for skills training must not exceed twelve

~~5.~~ (12) trainees to one (1) instructor.

~~6.~~ Staff in training can be employed after completing lessons one through(1) eleven.

~~6.~~ (1-11) (for a total of sixteen (16) hours of course work) and may continue to work on the floor while they are actively progressing through a NATPNursing Assistant Training Program (NATP); however, they cannot be included in the staffing ratio if they are actively participating in class instruction.

~~7.~~ Each program shall issue a written statement to each trainee, upon successful completion of the program, in the form of a certificate of completion, which shall include the program's name, NATP license number, the student's name and a numerical identifier such as a driver's license number or identification number from a valid government issued document that contains a current photo (such as state or national ID card, alien ~~registration~~registration card, military identification, or passport); the begin date and end date; and the signature of the Primary Instructor upon successful completion of the program. Such certificate, or

~~7.~~ copies thereof, shall serve as evidence of successful completion of a training program to be eligible to take the state competency examination.

#### D.C. Nursing Assistant Trainee Activities

1. Each trainee shall wear identification, during all skills training portions, that identifies them as a trainee. Identification must be visible to residents, family members, visitors, and staff.
2. A nursing assistant who has begun a training program and has not completed the program, may be hired by a facility to provide care for which they have received training and demonstrated competence. Nursing assistants are not permitted to perform services for residents during the training period for which they have not been trained and found by the training program to be competent.
3. Documentation of each trainee's acceptable performance of each skill, or procedure must be maintained by the Primary Instructor on the Task Performance Record (DMS-741 form) provided by the ~~Department~~ Department of Human Services. This record consists of the following:
  - (a) Tasks performed (which includes duties and skills completed);
  - (b) Satisfactory performance date; and
  - (c) The instructor's signature supervising the performance.
4. A program must terminate a trainee when provided with substantial evidence or a determination that the trainee is guilty of resident neglect or abuse, or misappropriation of resident property. The program ~~shall establish~~ procedures for a review of the allegations when requested by the trainee. The program shall inform the ~~Department~~ Department of Human Services of any trainees terminated under these circumstances.

#### E.D. In-Person or Virtual Classroom Facilities and Resources

##### ~~1. In Person:~~

~~10.~~ 1. The nursing assistant training program shall require the provision of physical facilities as follows:

- (a) Temperatures conducive to the weather;
- (b) Clean and safe conditions;
- (c) Adequate lighting;
- (d) Space to accommodate all students; and
- (e) ~~all~~ All Equipment for simulating resident care ~~in a~~ in and classroom ~~or~~ lecture (See Instructional Equipment under Section X).

2. The physical facilities including classrooms, laboratories, conference space, library, and educational materials shall be adequate to meet the needs of the program, the number of trainees, and the instructional staff.

Suggested training materials or resources may include, but are not limited to, a blackboard, flipchart, projector or screen, DVD, anatomical chart, mannequin, bed, and a



lavatory or sink.

~~2. Virtual:~~

~~See the virtual methodology section.~~

~~3.~~

~~Suggested training material/resources may include, but is not limited to a blackboard, flipchart, projector/screen, DVD, anatomical chart, mannequin, bed, lavatory/sink, etc.~~

~~4. e.~~ The ~~Department~~ Department of Human Services will not require or endorse any single textbook or other material (examples include but are not limited to such as videotapes or films), etc.

(a) There are several resources on the market and each facility or school will have the choice in selecting their textbooks or other training materials.

(b) The curriculum guide is to be used so each program will know the objectives and procedures expected to be communicated to the nursing assistant trainee for them to pass the state competency examination.

E. Virtual Training: See Virtual Methodology – Section X.

F. Orientation Program

1. All nursing assistants must receive an orientation program that includes, but is not limited to, an explanation of:

(a) The organizational structure of the facility;

(b) Policies and procedures (including but not limited to fire or /disaster plans, etc.); disaster plans for example fire, earthquake, flood, tornado);

(c) The philosophy of care of the facility;

(d) The description of the resident population; and

~~–(e)~~ Employee rules.

2. This facility orientation training program is not included in the required ninety (90) hours of nursing assistant training.

G. Ongoing In-Service Training

1. All facilities will continue to provide ongoing in-service training on a routine basis both in groups and as necessary in specific situations on a one-to-one basis. Each nursing assistant must receive one (1) hour of in-service training per month.

2. The facility must complete a performance review of each nursing assistant at least once per year and provide regular in-service training based on the outcome of these reviews. The in-service training should address areas of



weakness and be sufficient to ensure the continuing competence of the nursing assistants.

3. In addition to training needs identified by performance reviews, in-service training should also address the special needs of residents as determined by each facility. Training can be received on the unit, as long as it is directed toward skills improvement, provided by appropriately trained staff, and documented (for example, skills demonstration with return demonstration recorded on a check list).

4. Effective July 1, 2006, facilities are strongly encouraged to offer in-service training for nursing-home-employed CNAs-Certified Nursing Assistants who were certified in Arkansas prior to July 1, 2006, that covers the Barbara Broyles Alzheimer and Dementia Training that is included in Arkansas LTCF Nursing Assistant Training Curriculum. Facilities should maintain records that verify each ~~employed-employee~~, who was certified in Arkansas prior to July 1, 2006, has received this training. After July 1, 2006, and ongoing, the new Alzheimer's training is strongly encouraged for CNAs-Certified Nursing Assistants registered in Arkansas through reciprocity from other states and test candidates that are allowed to challenge the State competency test based on exemptions found in Section VII (D). ~~(three (3) through six (3-6)).~~

#### H. Non-Permanent Employees

† Nursing assistants who are employed ~~or~~ leased through a temporary hiring service must have completed an approved training program and passed the state competency evaluation test prior to employment and utilization ~~and use~~ by a facility.

## Section IV

## APPROVAL OF PROGRAMS

### A. Location

1. Nursing assistant training programs may be offered by or in nursing facilities, as well as outside facilities. The clinical portion of the training must be conducted in all cases and must utilize a nursing facility and its residents. Nursing facilities may offer a complete training program ~~and/or~~ may contract with another organization (or both) to provide the training unless they are sanctioned. Sanctioned nursing facilities cannot offer the training.

2. Other groups ~~and/or~~ institutions (examples include but are not limited to such as employee organizations, vocational or technical schools, community colleges, and private institutions) may conduct programs, upon the ~~Department's~~ Department of Human Services' approval.

3. Programs offered to the public and charging a tuition fee must submit an application and be approved by the ~~Department~~ Department of Human Services before they can be licensed through the State Board of Private Career Education. This provision would not apply to the state schools (such as a Vo-Tech vocational, technical, or, community colleges, etc.) or programs offered by long-term care facilities who train their own employees (or potential "on-call" employees).

### B. Restrictions

1. The ~~Department~~ Department of Human Services shall not approve a program offered by or in a nursing facility which, in the previous two years, has done the following:

(a) Operated under a waiver of the nurse staffing requirements in excess of forty-eight (48) hours during the week;

(b) Been subjected to an extended survey ~~or~~ or partially extended survey ~~or~~ or; or

(c) Been subjected to a civil money penalty of no less than \$5,000, denial of payment for new admissions, appointment of temporary management, closure, or transfer of residents to another facility.

\* "Extended survey" is defined for this provision as a survey which includes a review of facility policy and procedures pertinent to Level A deficiencies in Resident Rights, Resident Behavior and Facility Practices, Quality of Life, or Quality of Care.

\*

\* \*\* "Partial extended survey" is defined as a survey conducted as a result

of a deficiency in Level A requirements other than those listed above in the extended survey definition.

2. Facility-based training programs are prohibited from charging tuitions or ~~training~~ fees to their nursing assistant employees or those who have received an offer of employment for any portion of the program (including any fees for textbooks or other required course materials) (See Reimbursements under Section X).

C. Application

1. Each facility or entity that desires to offer a program shall file an Application for Program Approval form prescribed by the ~~Department~~ Department of Human Services (Form DMS-724). Application forms are available on the ~~DHS-DPSQA website~~ Department of Human Services - Division for Provider Services and Quality Assurance website or you can request an application by emailing: [natpcertification@dhs.arkansas.gov](mailto:natpcertification@dhs.arkansas.gov)

2. An outline, showing the lesson plans and teaching modules utilized to cover the curriculum contents, must be attached to the application ~~showing the lesson plans and teaching modules utilized to cover the curriculum contents~~. This should specify the elements covered in each module, hours of classroom theory, hours of lab (return demonstrations), and hours in the clinical area in a nursing home. Each facility's application must also include the following:

- ~~a.(a)~~ PI Resumes or ~~work~~ history to establish ~~LTC~~ long-term care experience;
- ~~b.(b)~~ AI resume or ~~work~~ history to establish ~~LTC~~ long-term care experience;
- ~~e.(c)~~ Waiver letter from the ~~Department~~ Department of Human Services if utilizing a sanctioned ~~LTC~~ long-term care facility;
- ~~d.(d)~~ Professional license verification; and
- ~~e.(e)~~ Additional information, as requested by the ~~Department~~ Department of Human Services.

3. When applicable for renewals, verification of school licensure by the Arkansas State Board of Private Career Education within the Arkansas Division of Higher Education (ADHE) will be required ~~(See item A of this section)~~. A notarized copy of the school licensure must be included with applications for new programs and for renewal of programs. Notification to the ~~ADHE~~ division, verifying additional instructors and ~~or any~~ changes in instructors, will be required with each application.

4. Application must be submitted to the ~~Department~~ Department of Human Services and approved by the ~~Department~~ Department of Human Services prior to the start of the first course.

5. An application must be completed and signed by the ~~Primary Instructor~~ primary instructor.

6. Applications that are received incomplete may cause postponement of

the program starting date. A notice of deficiency in the application will be mailed to an applicant within fifteen (15) business days of the date of filing. The applicant will be given an opportunity to correct any deficiencies.

7. Notice of approval or disapproval of the application will be given to the entity within fifteen (15) business days of the receipt of a complete application. If the application is to be disapproved, the reasons for disapproval shall be given in the notice.

~~8.~~ An applicant may request a review on a disapproval in writing within ten

~~8.~~ (10) business days of receipt of the notice of the proposed disapproval to the ~~Division Director~~ Director of the Division of Higher Education. If no request is made, the entity is deemed to have waived the opportunity for a hearing.

#### D. Changes in Programs

~~1.~~ Prior to major changes in the course, an application must be resubmitted for approval.

~~1.2.~~ Major changes include, but are not limited to:

- ~~-(a)~~ Change in training provider;
- ~~-(b)~~ Change in delivery site (~~i.e.,~~ such as, from classroom to virtual);
- ~~-(c)~~ Change in clinical site;
- ~~-(d)~~ Change in instructor; and
- ~~-(e)~~ Complete revision of course structure, including change in hours allotted to one (1) or more modules.

~~2.3.~~ Major changes do ~~NOT~~ not include:

- ~~-(a)~~ Change in materials (such as, handouts, textbooks, or videos, ~~etc.~~);
- ~~-(b)~~ Change in order in which modules are taught; or
- ~~-(c)~~ Addition of modules or tasks not required by rules or guidelines.

#### E. Withdrawal of Approval

1. Provisions for monitoring and review of compliance with program requirements are specified in ~~these rules this part~~. The Department of Human Services shall withdraw approval of a training program when;

- (a) The program has one (1) or more restrictions;
- (b) The entity offering the program refuses to permit visits by the Department of Human Services, whether announced or unannounced.

(~~a~~) Any facility that refuses to permit unannounced visits is subject to having its provider agreement terminated);

(c) The program's curriculum and implementation requirements specified in these rules are not met by the program;

(~~d~~) The program has an excessive failure rate for trainees on the state competency evaluation test over a three (3) year period and after opportunities to address the failure rate through enhanced monitoring;

(~~d~~)(e) Renewal is not completed prior to renewal date. NATP approval will be suspended until renewal is completed and approved;

(~~f~~) The program makes or causes to be made any false statement or representation of a material fact used in determining rights or any application for payment by any entity for reimbursement of training costs as allowed in Section X of these rules;

(~~e~~)(g) The program makes or causes to be made any false statement or representation that training was provided when training was not provided;

(~~f~~)(h) The program makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of the program in order for the program to qualify either upon initial approval or re-approval;

(~~g~~)(i) The program makes or causes to be made any false statement or representation that the amount of training costs ~~are~~ is greater than the actual cost of the training to obtain Medicaid reimbursement, as allowed in Section X of these rules, that exceeds the actual cost of training;

(~~h~~)(j) The program makes or causes to be made any false statement or representation of a material fact in violation of these rules; or

(k) The ~~s~~State determines that any of the applicable requirements if 42 C.F.R. §483.152 or 42 C.F.R. §483.154 are not met by the program.

2. When the ~~s~~State withdraws approval of a nurse aide training and competency evaluation program or competency evaluation program:

(a) The ~~s~~State must notify the program in writing, indicating the reason(s) for withdrawal of approval ~~of from~~ the program; and

(b) Students who have started a training and competency evaluation program from which approval has been withdrawn must be allowed to complete the course.

3. The program may file for a reconsideration of the withdrawal of

approval of a nurse aide training and competency evaluation program within ten (10) business days of the notification. The reconsideration shall be forwarded to the ~~Director of the division~~Division of Higher Education.

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## Section VI

## QUALIFICATIONS OF INSTRUCTORS

### A. Primary ~~II~~Instructor (PI)

1. The ~~Primary Instructor~~primary instructor shall:

(a) Be a ~~Registered Nurse~~registered nurse currently licensed in Arkansas or licensed under a compact license~~;~~ or holding a multistate privilege to practice if the registered nurse moves from a state that has joined the Interstate Nurse Licensure Compact, Arkansas Code § 17-87-601 et seq., to Arkansas and meets all requirements for licensure in Arkansas;

(b) ~~(b)~~ Not be under any current disciplinary action by the Arkansas State Board of Nursing. Disciplinary action includes, but is not limited to~~;~~ probation, suspension, revocation~~,~~ or voluntary surrender of license due to disciplinary action; and

(c) Possess a minimum of two (2) years' general nursing experience as a registered nurse including at least one (1) year of long-term care nursing services in a nursing facility setting within the last five (5) years. (Arkansas Code § 20-10-702).

2. Nursing experience may include, but is not limited to, employment in:

(a) ~~a A~~ Nursing ~~Assistant~~assistant Education ~~education~~ Programprogram;

(b) ~~a A~~ long-term care facility, or the supervisor of nursing students in a long-term care facility or unit;

(c) ~~a A~~ geriatrics department (excluding geriatric psychiatry); or

(d) ~~a A~~ long-term acute care hospital (recuperative care), home care, hospice care, or other long-term care setting.

~~2.3.~~ In a facility-based program, the training of nursing assistants may be performed under the general supervision of the ~~Director of Nursing~~director of nursing (DON), who is prohibited from performing the actual training (unless replacement DON coverage is provided).

~~3.4.~~ An individual who will be the Primary Instructor and meets the above criteria must submit the Application for Program Approval (Form DMS-724) to identify their teaching qualifications. This must include nursing experience, supervisory experience, and either teaching experience and/or certificate of attendance in an instructor workshop.

### B. Primary Instructor Responsibilities

1. There must be only one (1) ~~and only~~ Primary Instructor (PI). A Primary Instructor may oversee a maximum of four (4) sites. All questions and correspondence pertaining to the site will be directed to the PI. The PI shall

participate in the planning of each lesson ~~or~~ teaching module, including clinical instruction, whether or not the PI teaches the lesson.

<https://codes.findlaw.com/ar/title-20-public-health-and-welfare/ar-code-sect-20-10-705.html>

2. The ~~PI~~ primary instructor of a nursing assistant training program shall be responsible for supervision of the program and ensuring that the following requirements are met:

- (a) Course objectives are accomplished;
- (b) Each trainee exhibits the appropriate skills and knowledge to conduct any part of the training;
- (c) That ~~e~~Each instructor is monitored and evaluated in the classroom, learning laboratory and clinical training whenever they are teaching an assignment or introducing material for the first time, and at periodic intervals. Performance reviews of instructors must be documented and maintained.
- (d) The provision of direct individual care to assigned residents by a trainee is limited to appropriately supervised clinical experience. Instructors shall serve as supervisor of trainees while in clinical areas and providing resident care.
- (e) Each trainee shall demonstrate competence in clinical skills and fundamental principles of resident care. The task performance record must be approved and signed or initialed by the ~~PI~~ primary instructor.
- (f) Records are kept in order to verify the participation and performance of each trainee in each phase of the training program. Satisfactory completion of the training program shall be attested on each trainee's record.
- (g) Each trainee is issued a certificate of completion within ten (10) calendar days of course completion and as described in Section IV (B) (6) of these rules.

### C. Additional Instructor ~~or~~ Guest Speaker

- 1. Instructors may use other qualified resource personnel from the health field as guest instructors or speakers in the program to meet the objectives for a specific unit. Examples include but are not limited to ~~are~~ pharmacists, dietitians, social workers, sanitarians, advocates, gerontologists, nursing home administrators, and nurse aid program staff, ~~etc.~~ Guest instructors must have a minimum of one (1) year of experience in their respective fields and must not have current disciplinary action by their respective regulatory board.
- 2. Additional Instructors such as ~~Registered Nurse (RN)~~ registered nurses or ~~Licensed Practical Nurse (LPN)~~ licensed practical nurses may be used to provide instruction, skills training, and/or supervision. They must be under the general supervision of the ~~Primary Instructor~~ primary instructor, currently licensed in Arkansas and shall not be subject to any current disciplinary action by the Arkansas State Board of Nursing. Disciplinary action includes, but is not limited to, probation, suspension, revocation, or voluntary surrender of license due to disciplinary action, and have a minimum of one (1) year of long-term care experience. All final skills check-off reviews must be approved by the ~~Primary Instructor~~ primary instructor.



~~\_\_\_\_\_The Application of Program Approval (Form DMS-724) shall be used to  
identify each additional instructor or guest speaker and their qualifications to  
teach.~~

~~3. \_\_\_\_\_~~

~~3. \_\_\_\_\_The Application of Program Approval (Form DMS-724) shall be used to  
identify each additional instructor or guest speaker and their qualifications to  
teach.~~

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## Section VII    REQUIREMENTS FOR EXAMINATION AND CERTIFICATION

### A.    Transition

The initial implementation of these training and examination requirements ~~has~~ have covered three basic phases:

#### 1.    Deemed ~~Equivalence Waiver~~ equivalence waivers -

A nursing assistant shall be deemed to have satisfied the requirement of completing a training and competency examination program approved by the ~~s~~State if the nursing assistant:

- a.    Completed a program that offered a minimum of sixty (60) hours of nursing assistant training before July 1, 1989, and if such received before July 1, 1989, up to fifteen (15) hours of supervised and practical nursing assistant training or regular in-service nursing assistant education (initial training must be at least seventy-four (74) hours of classroom instruction, as well as sixteen (16) hours of supervised practical training; ~~a total of ninety (90) hours~~); ~~or~~
- b.    Completed a course of at least one hundred (100) hours of nursing assistant training and was found competent ~~(, whether by the sState or not,)~~ before January 1, 1989; or
- c.    Has served as a nursing assistant at one (1) or more facilities of the same employer in the State for at least twenty-four (24) consecutive months before December 19, 1989.

Individuals will not qualify for these waivers if they have not provided nursing or nursing-related services for a period of twenty-four (24) months or longer since completing training. They will be required to complete a new training program and state examination to obtain current certification.

Facilities who wish to obtain certification for the above-described individuals should submit ~~to~~ the Department Interstate Transfer Form (DMS-798), with attached copies of documents ~~and/or~~ certificates verifying course completion; and the number of hours in a course.

#### 2.    Employment Status as of July 1, 1989 -

All individuals working as nursing assistants in Arkansas nursing facilities as of July 1, 1989, were allowed to become certified by passing the state examination. These individuals but were not required to complete the ninety (90) total hours of training. These ninety (90) hours consisted of "formal" seventy-four (74) hours of "formal" classroom training course, as well as sixteen (16) hours of supervised practical training; ~~a total of ninety (90) hours.~~

~~This phase was completed by~~ After October 1, 1990, ~~and does not apply thereafter. Therefore, all individuals nursing assistants~~ must now complete the ninety ~~-(90) ninety (90)~~ hour training requirements to qualify to take the state examination, regardless of past employment status on July 1, 1989.

3. July 1, 1989 - Ongoing -

Effective July 1, 1989, a facility must not use any individual working in the facility as a nursing assistant for more than four (4) months (one hundred twenty (120) calendar days) unless they have successfully completed a training program and competency examination, approved by the ~~Department~~ Department of Human Services, as described in these rules.

B. Examination

1. The ~~Department~~ Department of Human Services or its appointed agency shall be responsible for administering the competency examination. The exam~~ination~~ shall be based upon the training curriculum requirements specified in the ~~LTCF-Llong-Tterm Ceare Ffacility~~ Nursing Assistant Training Curriculum Guide.
2. The examination will be in English. Translation of this examination will be offered, if needed. Additional accommodations can be made by the ~~Department~~ Department of Human Services or contractor based on a documented need; however, an additional fee may be required.
3. The competency examination shall consist of two (2) components, a written (or oral) exam~~ination~~ and a skills demonstration. Each examination candidate will be allowed to choose between a written or oral exam~~ination~~. The oral examination will be read from a prepared text in a neutral manner.
4. Foreign language translation dictionaries must be shown to the ~~RN-registered nurse Test Observer~~ test observer at check-in and to the Knowledge Test Proctor when entering the knowledge test room. No electronic dictionaries are allowed. No definitions or instances of writing ~~is-are~~ allowed in the translation dictionary. If there ~~is-are~~ any writing-definitions or instances of writing-definitions, the translation dictionary will not be permitted to be used during testing.
5. The written or oral component shall be developed from a pool of examination questions. Only a portion will be used in the exam. The skills demonstration shall consist of five (5) randomly selected questions drawn from a pool of tasks ranked based on the level of difficulty.
6. The skills demonstration component will be performed in a facility (not disqualified by criteria specified in Section V, item B.) or laboratory setting.
7. The skills demonstration will be administered and evaluated by a registered nurse (RN) with at least one (1) year experience in providing care for the elderly or chronically ill.
8. The skills demonstration component may be proctored by facility or

training site personnel (RNs as described above) if secure, standardized, and scored by the contractor approved by the ~~D&D~~Department of Human Services. "Proctoring" will not be approved in facilities prohibited as specified in Section V item B.

9. To complete the competency examination successfully, an individual must pass both the written or oral examination and the skills demonstration. If an individual does not complete the examination satisfactorily, they will be advised of areas which they did not pass and their right to take the examination two (2) more times.

10. All candidates will be allowed up to three (3) attempts, ~~within in~~within a twelve ~~(12)~~-month period, to successfully complete all portions of the competency examination. Failure after three (3) attempts will require retraining ~~in order~~ to qualify to sit for the competency examination. An individual has twelve (12) months to successfully pass the test after retraining.

11. Any trainee who is employed by any long-term care facility and fails any portion of the competency examination after three (3) attempts is prohibited from providing nursing services to residents in a long-term care facility.

Based on the program rules, these individuals may maintain their employment status if they re-enroll in a new training program. They would be required to follow the program implementation requirements of completing the first sixteen (16) hours (Part I) of training, prior to direct resident contact, and can only be assigned job duties thereafter in which they have been deemed competent to perform as they complete the remainder of the full ninety (90) hours of training. Upon successful completion of their training, they should be scheduled for the next available competency examination.

12. All individuals who successfully complete the examination shall be placed on the CNA registry and issued a state certificate. Information on the registry shall be made available for public inquiry (see Section VIII).

#### C. Examination Fees, Dates, and Locations

~~C.~~

1. The ~~D&D~~Department of Human Services does not require an initial fee for this occupational license; however, there is a fee to take the state examination. The amount of the examination fee will be announced in a timely manner by the ~~D&D~~Department of Human Services or designated contractor.

~~1.2.~~ If there were to be an initial fee, per Arkansas Code Annotated §17-5-104, the following individuals ~~are would~~ not ~~be~~ required to pay an initial fee for this license:

- a. An individual receiving assistance through the Arkansas Medicaid Program, the Supplemental Nutrition Assistance Program, the Special Supplemental Nutrition Program for Women, Infants, and Children, Temporary Assistance for Needy Families Program, or the Lifeline Assistance Program;
- ~~a.b.~~ An individual who was approved for unemployment within the last twelve (12) months; or
- c. An individual who has an income that does not exceed two hundred percent (200%) of the federal poverty income

guidelines.

b.

~~2.3.~~ The waiver of the initial fee does not include fees for:

- a. A criminal background check;
- b. An examination or a test; or
- c. A medical or drug test.

~~3.4.~~ The examination will be given at multiple sites geographically dispersed throughout the state. Schedules of times, locations, and registration requirements will be announced in a timely manner by the ~~De~~Department of Human Services or designated contractor.

~~4.5.~~ The competency examination (~~both including~~ written, oral, and skills components) may be administered in the facility of the candidate's employment unless the facility is disqualified by the ~~De~~Department of Human Services under criteria specified in Section V, item B.

~~5.6.~~ Each candidate must have appropriate verification of the training requirements- (see item D of this section and Section IV of these rules).

~~6.~~ The ~~De~~Department of Human Services will be responsible for paying the examination fee one

~~7.~~ (1) time for individuals who are employed by a Medicaid certified long-term nursing facility or those individuals that have a commitment ("letter of intent" as defined in Section X (A) (2) of these rules) to be employed in a Medicaid certified nursing facility. Letters of intent to hire from Medicaid certified nursing facilities must be dated within twelve (12) months immediately preceding the date of the application to take the examination. Independent examination candidates who are taking the competency examination without an employment connection to a long-term care facility will be responsible to pay their own examination fee. In accordance with 42 C.F.R. § 483.154, no nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide competency examination program may be charged for any portion of the program.

~~8.~~ If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than twelve (12) months after completing a nurse aide training and competency examination program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

#### D. Candidate Qualifications

The following is a list of qualifications for the state competency exam.

~~Note: Individuals listed on the LTCF Employment Clearance Registry, with a disqualification status due to a substantiated administrative finding of abuse, neglect, misappropriation of resident property, or a disqualifying criminal record in accordance with Arkansas Code § 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 (for example: career colleges, ~~Vocational or technical~~ schools, or proprietary schools) after January 1, 1989.
2. Nursing assistants who were trained in **approved** facility (nursing homes) programs after July 1, 1989.
3. Registered ~~n~~Nurses or students who have finished the basic nursing course (for example: Introduction to Nursing, or Fundamentals of Nursing). The individual must provide a copy of their school transcript, or documentation showing successful completion of the basic nursing course, to qualify for the state competency examination.
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 examination.
5. Home health aides who have met appropriate federal training or examination requirements for **HHA-home health aide** certification. Verification must show completion of a minimum of seventy-four (74) hours classroom training, and sixteen (16) hours of supervised practical training, or federal testing requirements as a home health aide. This provision does not apply to "personal care aides" as their training requirements of forty (40) hours ~~does do~~ not meet the ninety ~~-(90)-~~hour requirement for the ~~LTCF-Long-Term Care Facility~~ Nursing Assistant Training Program's.
2. Individuals from other states who can verify completion of a state approved geriatric nursing assistant training program but were not tested and registered. If registered in the other state, see Section VIII for reciprocity transfers without further examination. Verification of course completion rests with the individual and must be submitted to the DHS designated contractor for approval to take the Arkansas competency examination.
- 6.
7. Nursing assistants whose certification has become inactive based on the recertification requirements (see Section VIII, item C). These individuals shall be required to be retested for recertification. Permission for retesting shall require an "admission slip" obtained from the examination agency prior to the specified examination date.

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

All other individuals trained in programs that have not received approval from

the ~~De~~Department of Human Services 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, on-the-job training, or in-service training, as they are not acceptable in lieu of the approved training program.

1.E. ~~Arkansas Code §17-4-106~~ Certified Nursing Assistant Licensures of Uniformed Service Members, Veterans, and Spouses

1. Pursuant to Arkansas Code- § 17-4-1061 et. seq., ~~To comply with Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021,~~ the following rules apply to licensure for uniformed service members, uniformed service veterans, and their spouses for licensure as defined below:

a. A uniformed service member stationed in the State of Arkansas;

a.

b. 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

b.

~~1.~~ c. The spouse of:

a.i. A uniformed service member stationed in the State of Arkansas;

b.ii. A uniformed service veteran who resides in or establishes residency in the State of Arkansas;

e.iii. 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.iv. A uniformed service member who is killed or succumbs to ~~his or her~~their injuries or illness in the line of duty if the spouse establishes residency in the state.

**~~It is the intent of the Department to prevent removal of occupational licensure barriers for CNA licensures that may impede the launch and sustainability of civilian occupational careers and employment faced by uniformed service members, uniformed service veterans, and their spouses due to frequent uniformed service assignment by providing;~~**

2. Automatic CNA-Certified Nursing Assistant Licensures:-

Automatic CNA-Certified Nursing Assistant 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.

~~1.~~

a. The process of reciprocity includes ~~completion of the following with the state Vendor;~~ the following:

i. ~~Form 9110AR-Out of State Employment Verification for AR Registry-Renewal~~Completion of an application with all required forms;

ii. ~~Form Submission of~~-DD 214-DD 214/Separation Documents;

iii. ~~Form Submission of~~-DMS-798-Interstate Transfer Form/CNA Reg. Exemption/Reciprocity Request;-

iv. ~~Submission of an image/~~or copy of individuals social security card;

v. Submission of an iImage/~~or~~ copy of valid US-United States government issued photo identification; and



vi. Proof of service education, training, experience, and service-issued credentials by means of a Joint Service Transcript ~~.(JST).~~

~~vi.~~

b. Reciprocity is granted to those who meet the following criteria:

~~b.~~

- 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; and
- ii. A holder in good standing with CNA-Certified Nursing Assistant licensure within a similar scope of practice by another state, territory, or district of the United States.

3. Temporary or Provisional ~~Certified Nursing Assistant (CNA)~~Certified Nursing Assistant Licensure~~s~~:-

~~A t~~Temporary or provisional CNA-Certified Nursing Assistant licensure ~~to initial CNA-licensure candidates~~ will be ~~granted to provided while expediting full licensure by recognizing a~~ uniformed service member, or their spouse, ~~or a or uniformed service veteran, (or their spouse,) while expediting full licensure, when considering an application for initial licensure. e~~The Department of Human Services will consider education, training, national certification, experience, and service issued credentials of uniformed service members and uniformed service veterans that are applying for initial CNA-certified nursing assistant licensure. The following criteria will be classified as meeting service education, training, national certification, experience, and credentials;

~~2.~~

- a. Ninety (90) hours of approved education, training, or experience in healthcare; ~~or:~~
- ~~b. Sixteen (16) hours of supervised practical skills training in an Arkansas facility; and~~
- ~~a.b. P~~passing the Arkansas Nurse Aide Testing ~~nurse aide testing~~ with three (3) given attempts ~~within a~~ one hundred eighty (180) days post application.

4. Extension of License Expiration and Continuing Education Requirements ~~for Military Personnel~~Uniformed Service Members, Uniformed Service Veterans, and Their Spouses:-

~~Extension The department~~Department of Human Services will extend the ~~of license expiration date~~ and any continuing education requirements for CNA-Certified Nursing Assistant licensure renewal for a deployed uniformed service member or their spouse ~~will be granted the following as follows:~~

~~3.~~

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

The ~~Dd~~Department of Human Services may require evidence of completion of continuing education before granting a subsequent CNA-Certified Nursing Assistant licensure or authorizing the renewal of a CNA-Certified Nursing Assistant



Assistant licensure to allow full or partial exemption from continuing education requirements.

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

F. Automatic Occupational Licensure of Out of State Individuals

1. Pursuant to Arkansas Code Annotated § 17-7-101 et seq., a Nursing Assistant from another state may qualify as a Nursing Assistant in Arkansas if they meet the following criteria and provide documentation that reflects this:
  - a. They do not have a disqualifying criminal offense under Arkansas Code Annotated § 17-3-102 or any additional state law relating to the occupational licensure; or
  - b. They do not have a complaint, allegation, or investigation pending for his or her their occupational activity; or
  - c. They are in good standing for one (1) year with an occupational licensure of similar scope of practice issued by another state, territory, or district of the United States; or they have worked:
    - i. In another state, territory, or district of the United States that does not use an occupational licensure to regulate an occupation or profession but is regulated by occupational licensure in this state; and
    - ii. At least three (3) years in the occupation.
2. An individual who is granted automatic occupational licensure under these Rules shall meet all other occupational licensure requirements for a resident of this state and all renewal requirements of the occupational licensure, including without limitation a criminal background check and continuing education hours.
3. The ~~De~~Department of Human Services may require an applicant to pass an examination.
- 2.4. The ~~De~~Department of Human Services shall require an applicant to furnish a bond, financial statement, or proof of insurance coverage, if required by state law.

A. Function and Content

1. The ~~De~~Department of Human Services shall establish and maintain a registry of all individuals who have satisfactorily completed the training and competency examination program requirements. The nursing assistant registry shall be incorporated into the ~~Long-Term Care Facility~~long-term care facility Employment Clearance Registry (ECR),employment clearance registry which shall include substantiated administrative findings of abuse, neglect, or misappropriation of resident property for ~~CNAs~~Certified Nursing Assistants.

2. The information in the registry shall be made available to the public and open for inquiries twenty-four (24) hours per day, seven (7) days per week, ~~(except for scheduled maintenance or at times of technical problems)~~, by computer through an online website system (see Subsection B of this section).

3. The ~~Certified Nursing Assistant~~certified nursing assistant registry record, for each individual who has successfully obtained certification as a ~~LTCF~~long-term care facility nursing assistant shall contain the following information:

- ~~(a)~~(a) Individual's full name;
- ~~(b)~~(b) Date of birth;
- ~~(c)~~(c) Name and date of the successfully completed s~~State~~-approved training program-~~successfully completed~~;
- ~~(d)~~(d) Certification number and date of issuance;
- ~~(e)~~(e) Current active or inactive status; and
- ~~(f)~~(f) Most recent re-certification date.

4. The ~~department~~Department of Human Services shall review and investigate allegations of neglect, abuse, or misappropriation of resident property by a nursing assistant. A nursing assistant shall be given written notice by the ~~department~~Department of Human Services of a finding on an allegation and must request, in writing, a formal hearing within thirty (30) days of receipt of the notice, or the right to a hearing shall be waived. Following any appeal, the registry and the nursing assistant shall be notified of the findings. If the finding is substantiated either by the individual's failure to appeal or by issuance of a final administrative order, the registry shall include the documented findings involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. (See ~~Subsection item DE~~ of this ~~s~~Section for the process to petition to remove findings of neglect.)

4.5. The ~~department~~Department of Human Services, in the case of inquiries to the registry, shall verify if the individual is listed in the registry and shall disclose any information concerning a finding of resident neglect, resident abuse, or misappropriation of resident property involving an individual listed in the registry. It shall also disclose any statement by the individual related to the finding or a clear and accurate summary of such a statement.

B. Inquiry Process

1. A facility must inquire of the registry as to information in the registry concerning any individual to be used as a nursing assistant. A facility may not use an individual as a nursing assistant until registry inquiry and clearance is obtained. Registry inquiries shall be performed within five calendar days of the offer of employment and prior to any resident contact. A facility must document all inquiries and must include such documentation in the personnel file of each nursing assistant used by the facility.
2. Registry clearance shall be obtained by computer access to the online website system. The URL address to the online website system shall be issued by the De~~D~~Department of Human Services, or its designated agent, and may be subject to change. If needed, facilities should contact the De~~D~~Department of Human Services for the latest contact website information ~~for the system.~~
3. The online website system will maintain an internal log of each inquiry made by Arkansas nursing facilities using a numeric code (~~Registry Identification Number~~registry identification number) assigned to each facility. The internal log shall be monitored by the De~~D~~Department of Human Services to verify each facility's compliance with inquiry requirements.
4. The online website system is capable of providing a printable registry clearance verification report document for the nursing facility's use in record keeping. The facility shall be required to print the registry clearance report and maintain this report in the employee's personnel file.
5. Registry clearances accessed through the online system require the nursing assistant's Social Security Number (~~SSN~~) and date of birth. Facilities ~~are required to access by using~~must have the SSN-social security number or certification number in order to ~~assure~~ensure an accurate inquiry.

NAME SEARCHES

~~J. Name searches are possible on the online system but accuracy is not assured. Name searches may also be obtained by calling the Department of Human Services. Please note, however, that name searches by calling the Department of Human Services do not generate a verification log of the clearance. Therefore, facilities shall avoid the use of name searches when the need for documentation and accuracy of the registry check is required. ARE POSSIBLE ON THE ONLINE SYSTEM BUT ACCURACY IS NOT ASSURED. NAME SEARCHES MAY ALSO BE OBTAINED BY CALLING THE DEPARTMENT. PLEASE NOTE, HOWEVER, THAT NAME SEARCHES BY CALLING THE DEPARTMENT DO NOT GENERATE A VERIFICATION LOG OF THE CLEARANCE. THEREFORE, FACILITIES SHALL AVOID THE USE OF NAME SEARCHES WHEN THE NEED FOR DOCUMENTATION AND ACCURACY OF THE REGISTRY CHECK IS REQUIRED.~~

Inter-state (Reciprocity) Transfer

1. ~~If an individual has completed a training and competency examination program and become certified as a nursing assistant in other state(s) that meet federal guidelines, reciprocity may be granted without further training or testing. The DMS-798, Interstate Transfer Form, must be submitted to the DHS-designated contractor with a copy of each state's certificate or registration document. The DHS-designated contractor will contact the other state to clear the~~

~~individual's status for the transfer of their certification through reciprocity. The facility may not use the individual until each other state's registry is cleared. Once that information is received, the CNA may be added to the CNA registry.~~

~~Some of these individuals may qualify for registration under certain criteria; some may be required to take the Arkansas state test, and some may be required to complete both training and testing.~~

#### D.C. Certification Renewal

The initial certification period is valid for twenty-four (24) months. Each certificate contains an expiration date. The ~~D&D~~Department of Human Services will develop a plan and procedure to renew each nursing assistant certification listed in the registry on a biennial basis (every two years). The renewal process will require the nursing assistant to document having worked as a nursing assistant for monetary compensation during the prior two (2) years. This provision shall be defined by at least one (1) documented day (~~e.g., meaning,~~ eight (8) hours) of employment providing nursing or nursing-related services for monetary compensation in any setting.

~~CNAs-Certified Nursing Assistants~~ who provide services for private pay clients must include a check stub and a notarized letter from the employer, which should include ~~CNA-Certified Nursing Assistant~~ duties performed within the twenty-four ~~(24)~~-month period, to verify current employment or employment within the last twenty-four ~~(24)~~-month period.

~~1.~~ 1. Employing facilities and/or individuals shall be required to submit updated information to the registry to establish ongoing eligibility for active status. The registry shall make "inactive" those individuals who cannot document having worked in an aide capacity within a twenty-four (24) month period. Nursing assistants who are currently employed as a nursing assistant at the time of their renewal will be renewed for twenty-four (24) months. Nursing assistants who are not currently employed will be renewed for twenty-four (24) months beginning with the last day employed as a nursing assistant. A certification that has been expired for a period longer than twenty-four (24) months cannot be renewed and the individual shall retest and complete sixteen 1. (16) hours of clinical training to re-certify to an active status.

~~2.~~ 2. An individual will be required to successfully complete a new competency evaluation test to become recertified (see Section VII, item D, number -7), if documentation of having worked in an aide capacity within the previous twenty-four (24) month period cannot be provided, or for any certification that has been expired for over twenty-four (24) months.

~~2.~~ 3. The process to renew a nursing assistant certification shall be overseen by the ~~D&D~~Department of Human Services or its agent. Each certified nursing assistant shall be responsible for renewing their certification online approximately sixty (60) calendar days before the expiration of their certification.

~~3.~~ 4. Individuals listed on the ~~LTCF-long-term care facility Employment Clearance Registry~~employment clearance registry with a disqualification status due to a substantiated administrative finding of abuse, neglect, misappropriation of resident property, or a disqualifying criminal record in accordance with ~~Ark. Code Ann.~~Arkansas Code § 20-38-101 et seq. shall not

be eligible to renew their certification. Individuals approved for removal of a neglect finding pursuant to Section VII, Item D, Subsection VIII (E) shall be eligible to renew their certification.

5. Nursing assistant certifications may not be renewed more than sixty (60) calendar days prior to the expiration date.

6. Renewals may be completed through the online website. The ~~D~~Department or its designated agent shall provide instructions for the online renewal process.

7. The Arkansas Nursing Assistant Registry renewal must be fully completed by the CNA Certified Nursing Assistants, and the information must be accurate to the best of their knowledge. Failure to fully complete the renewal or provide false or inaccurate information, ~~;~~ shall constitute the basis for denial of certification renewal.

8. When a nursing assistant renewal is processed and the nursing assistant is determined to be eligible for renewal, a new certificate showing the new expiration date will be available online for the CNA-Certified Nursing Assistant to print and their registry record shall be updated to reflect the new certification period.

#### E.D. Petition to Remove Neglect Findings

Pursuant to federal law 42 U.S.C. § 1395i-3(g)(1)(D), in the case of a finding of neglect under Subsection A of Section VIII of these rules, the ~~department~~Department of Human Services shall establish a procedure that permits a certified nursing assistant to petition for the removal of a substantiated finding of neglect.

##### 1. Factors that must be met are:

- a. The certified nursing assistant must have a substantiated finding of neglect. There shall not be a ~~Petition~~petition process available for substantiated findings of physical abuse, verbal abuse, or misappropriation of resident property.
- b. The ~~Department~~departmentDepartment of Human Services makes a determination that the ~~p~~Petitioner's employment and personal record does not reflect a pattern of abusive behavior or neglect. Factors to be considered shall include, but shall not be limited to:

- i. The neglect that resulted in a finding was a singular occurrence as identified in the incident investigation file;
- ii. The ~~p~~Petitioner does not have a criminal conviction related to neglect, abusive behavior, or physical violence;
- iii. The ~~p~~Petitioner's name does not appear on the Adult and Long-Term Care Facility Resident Maltreatment Central Registry or the ~~DHS~~department or the/ Division of Children and Family Services' Child ~~Abuse~~Maltreatment Central Registry;
- iv. Whether a pattern of abusive behavior or neglect is discovered through reference checks with prior employers

or other parties; and-

- v. Character references as provided by the Petitionerpetitioner.

- c. At least one (1) year has passed since the pPetitioner's substantiated finding of neglect was placed on the Registryregistry.

- 2. The procedure to file for a pPetition to remove a neglect finding shall include the following:

- a. Petitioner shall submit a letter requesting the removal of the neglect finding. The letter shall be addressed to:

Division of Provider Services and Quality Assurance  
Nursing Assistant Training Program  
Mail Slot S-405, P.O. Box 8059  
-Little Rock, AR 72203-8059

- b. The pPetitioner must provide the following information with their request letter:

- i. Full name and current mailing address;
- ii. Day-time phone number;
- iii. Social Security Number;
- iv. Date of birth;
- v. Name and day-time phone number of at least two (2) personal character references;
- vi. Letters of reference from any employment within the previous year from the date of the Petitionpetition. This letter must include a statement attesting to the Petitioner'spetitioner's work performance in relation to the lack of any incidents involving abusive or negligent behavior; and
- vii. A current criminal record report from the Arkansas State Police. If the Petitionerpetitioner is currently or has recently (within the previous twelve (12) months) lived in another state, a criminal record report must be provided from that state. All criminal record reports must be an original document and copies will not be accepted.

- 3. The -departmentDepartment of Human Services shall review each Petitionpetition for consideration for removal of the neglect finding. The review shall be conducted by an administrative review panel consisting of at least three (3) members appointed by the Division DirectorDirector of the Division of Provider Services and Quality Assurance. The panel shall meet within thirty (30) days of any Petitionpetition. The review panel shall consider all information submitted by the Petitionerpetitioner and may conduct additional research as needed.

- 3.4. The review panel shall render a decision within thirty (30) calendar days of the panel's review, and the Petitionerpetitioner shall be notified in writing within ten (10) business days of the review committee's final determination.



4.5. If the ~~Petition~~-petition to remove the neglect finding is approved, the ~~Registry~~-registry shall be updated within ten (10) business days to show the ~~Petitioner~~-petitioner no longer has the neglect record and shall be eligible for employment in Arkansas long term care facilities. Note that any ~~CNA-Certified Nursing Assistant~~ whose certification has been expired for over twenty-four (24) months must successfully complete the state competency test to re-establish employment eligibility as a certified nursing assistant.

5.6. Any applicant whose ~~Petition~~-petition has been denied may not re-apply for a subsequent Petition request for a period of at least twelve (12) months from the date of the previous denial.

6.7. If the ~~Petition~~-petition to remove the neglect finding is denied by the review panel, any further appeals of the committee's determination shall be based on the appeals procedures as listed below:

1.a. Administrative hearings are available to persons, herein referred to as ~~Petitioners~~petitioners, who disagree with determinations to deny a ~~Petition~~-petition to remove a neglect finding made by the ~~department~~Department of Human Services as described in these rules.

b. If a ~~Petitioner~~-petitioner wishes to appeal, they may do so by mailing a written notice of appeal to:

~~the~~ Office of Appeals and Hearings  
Arkansas Department of Human Services;

P.O. Box 1437-Slot ~~N401~~S101  
Little Rock, Arkansas 72203;

~~The~~ notice shall be mailed by certified mail, with return receipt requested. The notice of appeal shall state the following:

1.i. Name of the ~~Petitioner~~petitioner;

2.ii. Address of the ~~Petitioner~~petitioner;

3.iii. Date of birth of the ~~Petitioner~~petitioner;

4.iv. Phone number, if any, of the ~~Petitioner~~petitioner;

5.v. The ~~Petitioner's~~petitioner's place of employment; and

6.vi. A short statement explaining why the ~~Petitioner~~-petitioner believes the determination or /decision is in error.

2.c. The notice of appeal must be postmarked by the Office of Appeals and Hearings ~~Office~~ within thirty (30) calendar days from the receipt of the notification of denial of the petition. No appeal shall be accepted after thirty (30) calendar days of receipt of the determination or /decision.

3.d. A hearing shall be conducted by the Department of Human Services Office of Appeals and Hearings, ~~Department of Human Services~~. The procedures to conduct the hearing are as follows:

i. The hearing record will contain all documents, exhibits and testimony admitted into evidence by the hearing officer. Within twenty (20) calendar days of receipt of notice that a Petitioner has requested a hearing, the Petitioner and the ~~Dd~~Department of Human Services will prepare a file to be submitted to the Office of Appeals and Hearings and mail a copy of the file by certified mail, return receipt requested, to the other party. The file will contain only documentary evidence supporting or tending to support each party's allegations. The ~~Dd~~Department of Human Services will also submit an ~~Administrative Hearing Statement~~administrative hearing statement summarizing the determination or decision. This statement is not evidence. Only such portions of each file as determined by the hearing officer to be relevant shall be included in the ~~Administrative Hearing Record~~administrative hearing record.

— Both parties will be advised by the Office of Appeals and Hearings via certified mail, return receipt requested, that they have ten (10) calendar days from the date the certified mail receipt was signed in order to review the hearing file and submit a request to subpoena witnesses. The request shall include the name, address, and telephone number of all witnesses not employed by ~~DHS~~the Department of Human Services. Department of Human Services~~DHS~~ employees will be expected to attend hearings and present testimony without the benefit of a subpoena and will be notified by the Office of Appeals and Hearings of their required presence at the hearing. Each party will be notified of any witnesses requested and will have five (5) business days from the receipt of this notice to request subpoenas for rebuttal witnesses.

— The Department of Human Services, Office of Chief Counsel, will issue the subpoenas, pursuant to the terms and authority of Ark~~ansas~~. Code ~~Ann.~~ § 20-76-103.

ii.

~~1.~~iii. After the time frame has expired for subpoenaing witnesses, the hearing officer will schedule the hearing to afford the ~~Petitioner~~petitioner, the ~~Dd~~Department of Human Services, and their attorneys, if any, at least ten (10) calendar days' notice of the date, place, and time of the hearing. The scheduling letter, sent via certified mail with return receipt requested, shall also contain the name of the hearing officer who will conduct the hearing. In the event ~~that~~ the ~~Petitioner~~petitioner, the ~~Dd~~Department of Human Services representative, or an attorney representing the ~~Petitioner~~petitioner suffers from illness or cannot attend the hearing due to scheduling conflicts, that party may request the hearing be continued. The hearing will be rescheduled by the hearing officer upon a showing of good cause. A request for continuance made by the ~~Petitioner~~petitioner or the ~~Petitioner's~~petitioner's attorney will constitute a waiver of any objection as to timeliness of the hearing. In each case, the hearing and hearing record must be completed within one hundred twenty (120) calendar days of receipt of the request for a hearing.



- 2.iv. The hearing will take place at a place, time, and manner determined by the Office of Appeals and Hearing. Hearings may be conducted by telephone, by personal appearance of the parties, or by record review by the Office of Appeals and Hearings.
- 3.v. If the ~~Petitioner~~petitioner fails to appear for the hearing when conducted by telephone or by personal appearance of the parties and does not contact the Office of Appeals and Hearings prior to the date of the hearing of their inability to attend, the appeal will be deemed abandoned. The ~~Petitioner~~petitioner will be advised of this fact in the scheduling letter.
- 4.vi. It is the responsibility of the ~~Dd~~Department of Human Services to designate a representative prior to the time of the hearing. The representative should be familiar with the circumstances of the determination~~/or~~ decision and be able to summarize the pertinent aspects of the situation and present the documentation to support the basis for the determination or decision. The representative should also be able to answer questions posed by the Petitioner or the hearing officer relative to the issues and should be prepared to ~~cross-cross~~ examine adverse witnesses. The representative may request the services of an Office of Chief Counsel attorney for representation at the hearing.
- 5.vii. If any party is to be represented by an attorney, notice shall be given to all parties and to the Office of Appeals and Hearings at least ten (10) calendar days prior to the hearing. Failure to furnish notice shall entitle other parties to a continuance to obtain counsel. Petitioner's failure to furnish notice shall constitute a waiver of objection as to timeliness of the hearing.
- 6.viii. The hearing will be conducted by a hearing officer from the Office of Appeals and Hearings who had no part in the determination~~/or~~ decision upon which the hearing is being conducted.
- 7.ix. The ~~Petitioner~~petitioner may be accompanied by friends or other persons and may be represented by a friend, legal counsel, or other designated representative.
- 8.x. The hearing officer may not review the case record or other material either prior to or during the hearing unless such material is made available to the ~~Petitioner~~petitioner or their representative.
- 9.xi. The hearing will be conducted in an informal but orderly manner. The hearing officer will explain the hearing procedure to the ~~Petitioner~~petitioner. The administrative hearing statement will be read by the ~~department~~Department of Human Services representative. The ~~department~~Department of Human Services shall then present its case. After completion of the ~~department~~Department of Human Services case, the ~~Petitioner's~~petitioner's case will be presented. The parties shall have the opportunity to present witnesses, advance arguments, offer additional evidence, and to confront and cross examine adverse witnesses. If the ~~Petitioner~~petitioner is unable to present their evidence in a logical manner, the hearing officer will assist the ~~Petitioner~~petitioner.

Questioning of all parties will be confined to the issue(s) involved.

~~10.xii.~~ The hearing officer will prepare a comprehensive report of the proceedings. The report will consist of an introduction, findings of fact, conclusions of law, and decision. The report shall constitute the final agency determination. The determination shall be mailed to the Petitioner and the ~~department~~ Department of Human Services.

—Any further review must be pursued in accordance with the Administrative Procedure Act, Arkansas Code ~~Annotated~~ § 25-15-101 et seq.

Section ~~VIII~~ E METHODOLOGY FOR REVIEW OF COMPLIANCE WITH PROGRAM REQUIREMENTS

A. Monitoring

1. A program is subject to inspection at any reasonable time by personnel that are authorized by the ~~department~~ Department of Human Services. After initial approval of a training program, the ~~department~~ Department of Human Services has the right to do an onsite or virtual visit review to determine the program's implementation of and compliance with the requirements. To ensure ongoing compliance, the ~~department~~ Department of Human Services has the right to complete unannounced, onsite, or virtual visits at a minimum of once every two (2) years.
2. Program reviews may be comprehensive or partial. Based on the findings of the most current review, or overall test scores, a program may be reviewed more often and in depth.
3. The inspector will generate a report that will specify strengths and deficiencies of the program. The ~~department~~ Department of Human Services will terminate programs that do not meeting minimum requirements and that do not provide an acceptable plan for correcting deficiencies within the specified timeframe as established by the ~~d~~ Department of Human Services.
4. The program will be able to re-apply for in-person or virtual instruction after the one (1) year suspension.
5. If a training program is deficient, a corrective action plan must be submitted to the ~~Dd~~ Department of Human Services within ten (10) business days of receiving the notification. The corrective action plan may be returned to the program for further clarification, if the plan does not accurately describe a plan that corrects the deficient practice. The ~~Dd~~ Department of Human Services will send notification to the program upon approval of the corrective action plan. The corrective action plan must include, at a minimum, the following:
  - (a) Activities to correct deficiencies;
  - (b) Person responsible for correcting the deficiencies;
  - (c) Implementation date; and
  - (d) Signature of the primary instructor.

Failure to respond or inadequate corrective actions may cause suspension of the ~~Dd~~ Department of Human 'sServices' approval of the program.

B. Items Subject to Monitoring-

1. Maintenance of Secure Records - Each training program shall provide for secure maintenance of records. Records to be maintained and protected shall include at a minimum, the following:

4.

- ~~-(a)~~ Names of enrollees;
- ~~-(b)~~ Names of those who successfully complete the program
- ~~-(c)~~ Begin and end dates of each class; Curriculum and ~~for any~~ revisions of curriculum, with approval from the ~~De~~Department of Human Services;
- ~~-(d)~~ Tests, grades, course documents, skills checklist;
- ~~-(e)~~ Credentials of instructors;
- ~~-(f)~~ Documentation of all state approvals; and
- ~~-(g)~~ Record of complaints (~~i.e., for example,~~ nature of complaint, date of complaint, investigation summary, and outcome).

2. Compliance with the following program related curriculum content:

- (a) Program length;
- (b) Ratio of classroom to skills training;
- (c) Qualifications of instructors;
- (d) Quality of skills training supervision;
- (e) Access for clinical training in a nursing facility that was not disqualified based on criteria specified in Section V (B);
- (f) Physical (classroom and lab) facilities; and
- (g) Virtual classroom capabilities.

3. ~~Care-care~~ - The quality of care provided by individual nursing assistants monitored during a ~~licensure and/or licensing~~ survey ~~or and~~ certification survey.

4.

3. ~~Rate-rate~~ - The graduates' success rate of both virtual and in-person trainees on the state competency examination will be monitored by the ~~De~~Department of Human Services and shall be utilized as a criterion for revoking program approval.

4.

2.5. Any other requirements included in this manual.

## Section IX METHODOLOGY FOR REVIEW OF COMPLIANCE WITH VIRTUAL TRAINING

### VIRTUAL INSTRUCTION ONLY APPLIES TO LECTURE PORTION OF TRAINING

All content taught to students remains the same whether the program offers in-person or virtual instruction. If the program chooses to offer virtual instruction, the expectation of delivery of information remains the same as in-person. Virtual instruction must be indicated on the application and a virtual plan must be submitted to the Department for approval. If the program fails to meet the guidelines, it will result in temporary suspension, deficiency, or both. In addition to complying with rules, the following requirements must be met:

#### A. Requirements

1. A program is subject to inspection of virtual instruction at any time by Department of Human Services personnel. A program that provides virtual instruction must have practical capabilities and set forth expectations including, but not limited to, the following:
  - a. Internet capabilities for the program and the participants;
  - b. Requirements of logging into the virtual site at least fifteen (15) minutes prior to the beginning of class and staying connected virtually until class ends;
  - c. A camera that is turned on during instruction; and
  - d. Individual logins that must be tracked and maintained for auditing purposes by the Department.
2. Virtual programs are responsible for ensuring that the Department of Human Services has the virtual link to audit compliance with these rules. The link must be functional and active at all times.
3. All participants must be able to have visible access to observe all curriculum activities (examples include, but are not limited to, hands-on demonstration, notes on board, and all instruction provided by the program).
4. All videos to be viewed must be included in the curriculum for in-person and virtual training.
5. All skills labs must be in-person.
6. The programs must provide training materials prior to class, including but not limited, web access to materials.

## Section X

## REIMBURSEMENTS

### A. General Provisions

1. This section sets forth policy for direct reimbursement for allowable nursing assistant training costs incurred by Medicaid certified nursing facilities. Allowable training costs will be separately tracked, documented, and submitted monthly as described herein. All reimbursements shall be made directly to the Medicaid certified nursing facility.
2. Based on Federal regulations, nursing assistants who are employed by (or who have a “letter of intent” to be employed by) a Medicaid certified nursing facility may not be charged for any portion of the program (including any fees for textbooks or other required course material). The ~~D&D~~Department of Human Services shall be responsible to pay for the training costs one (1) time for individuals who are employed by or have a “letter of intent” to be employed; by a Medicaid certified nursing facility as set forth in this Section.

3. The criteria required for reimbursements under the “letter of intent” arrangement must meet the following:

~~—The facility must have on file a job application completed and signed by the individual receiving the letter of intent;~~

~~Letters of intent must be on the facility letterhead, dated within twelve~~

~~—(12) months immediately preceding the training and signed by the facility Administrator. Copies of the Administrator’s signature are not allowed;~~

~~(a)~~

~~—The facility must have on file a job application completed and signed by the individual receiving the letter of intent;~~

The facility must complete a criminal record check on the individual in accordance with ~~Ark. Code Ann.~~Arkansas Code § 20-38-101 et seq; and

~~(b) The facility must retain copies of documents to verify compliance with these provisions as specified in Subsection E of this section.~~

~~a(c) The facility must retain copies of documents to verify compliance with these provisions as specified in Subsection E of this section.~~

- ~~3.4.~~ Allowable costs for nursing assistant training reimbursement may include the costs for operation of an approved nursing assistant training program, the costs associated with a cooperative training effort with a neighboring approved training program (not claimed by that program), and the costs of having nursing assistants trained in an approved non-facility-based training program (paid by the facility). **Nursing Assistant salaries and fringe benefits, including amounts paid while in training, and in-service or continuing education costs are not directly reimbursable but are included on the facility's annual cost report and reimbursed through the per diem rates.**

4. ~~—~~Reimbursement of nursing facility costs for training of nursing assistants must be allocated between Medicaid, Medicare, and private pay patients. Medicaid may not be charged for that portion of these costs that are properly

5. charged to Medicare or private pay activities. Therefore, the ~~department~~Department of Human Services will pay only the percentage of the total billed or maximum limit (see item D) for nursing assistant training based on the percentage of Medicaid recipients indicated on the billing. Facilities should continue to bill for the total amount of expenses incurred. The recipient information should reflect the midnight census for the last day of the month.

B. Allowable ~~Costs~~costs

The following costs are allowable for nursing assistant training:

1. Nursing ~~Assistant~~transportation ~~transportation~~ ~~Expenses~~expenses: The dollar amount of transportation expenses paid directly to or reimbursed for the NA-nursing assistant to attend training or to travel to a NA-nursing assistant competency evaluation site.
2. Books: The dollar amount spent for books purchased specifically for use in the NA-Nursing Assistant training program.
3. Instructional ~~Equipment~~equipment: The dollar amount spent for equipment. Examples include, but are not limited to, such as SMARTBoards, iPads, ~~and~~ Apple TV, Chromebooks, multi-media projectors, and DVDs, ~~etc.~~ purchased specifically for use in the NA-nursing assistant training program.
4. Instructional ~~Videos~~videos: The dollar amount spent for things such as instructional videos, ~~, etc.~~ purchased specifically for use in the NA-nursing assistant training program.
5. Other ~~Training~~training ~~Materials~~materials: The dollar amount spent for other approved training materials purchased specifically for use in the NA-nursing assistant training program.
6. Training ~~Space~~space: The dollar amount spent for the rent of classroom space (outside the facility), and things such as, lab equipment, ~~, etc.~~ specifically for the NA-nursing assistant training program. Construction costs for training facilities will not be authorized.
7. Instructor ~~Wages~~wages: The dollar amount of wages paid to the NA-Nursing Assistant Instructor for training time, only while the NA-Nursing Assistant Instructor is not included in the NF's-Nursing Facility's staffing pattern providing nursing services.

Facilities should not include the time spent proctoring the skills test as a training activity for reimbursement. Information reported to DHS-the Department of Human Services on the DMS-755 is strictly for training, **not testing activity.**

8. Instructor ~~Fringe~~fringe ~~Benefits~~benefits: The dollar amount paid for fringe benefits to the nursing assistant instructor while training, is for their training services only. while the NA Instructor~~The nursing assistant isinstructor is~~ not to be included in the NF's-nursing facility's staffing



pattern for providing nursing services.

8.

9. Nursing Assistant ~~assistant~~ Consultant ~~consultant~~ Training ~~training~~ Fees ~~fees~~:- The dollar amount paid to a consultant trainer for NA-Nursing Assistant training.

9.

10. Consultant ~~Reimbursable~~ ~~reimbursable~~ Expenses ~~expenses~~:- The dollar amount paid to a consultant trainer for reimbursable expenses such as travel and lodging.

11. Instructor ~~Workshop~~ ~~workshop~~ Fees ~~fees~~:- The amount of tuition and registration fees paid for NA-Nursing Assistant training program instructors to attend instructor workshops. Instructor workshops must meet requirements established by the Office of Long-Term Care to qualify for reimbursement and participants must be approved for attendance by the Office of Long-Term Care.
12. Instructor ~~Workshop~~ ~~workshop~~ Travel ~~travel~~ Expenses ~~expenses~~:- Travel expenses and lodging paid directly or reimbursed for NA-Nursing Assistant training program instructors to attend instructor workshops.
13. Nursing Assistant ~~assistant~~ Training ~~training~~ Tuition ~~tuition~~:- The dollar amount spent on tuition for employees (and potential employees given a "letter of intent," dated within twelve (12) months immediately preceding the date of the completion of training) to attend NA-Nursing Assistant training in an approved non- facility training program. The actual amount of tuition paid for a student, up to a **maximum of four hundred eighty dollars (\$480.00) per student**, will be reimbursed as allowable cost. This amount is based on the provision of the minimum ninety (90) hours training required by the department ~~Department of Human Services~~.

C. Claims ~~Submissions~~ submission

1. Claims for reimbursement of expenses incurred for NA-nursing assistant training costs shall be submitted to the department ~~Department of Human Services~~ monthly on form DMS--755. Claims for the expense month can be submitted no earlier than the first day of the month or the last day of the month following the expense month. The report forms will be designed to capture the above cost categories by use area in either formal "approved" or combined/ "cooperative" training. Therefore, documentation of these costs should be accounted for in a manner consistent with these categories.

- ~~K-2.~~ 2. Claims must be submitted to the department ~~Department of Human Services~~ within thirty (30) calendar days following the end of the expense month. **Claims not submitted timely or claims that are incomplete will not be accepted for payment and shall be returned to the facility. Corrected claims must be submitted within fifteen (15) calendar days of the date returned.**

3. A claim for reimbursement may not be submitted for any month in which no students completed training. Unclaimed costs in this circumstance may be



carried over to the month when students complete training and will still be subject to the four hundred eighty dollars (\$480)-00 maximum cost limit per student (see item D of this section - Maximum Cost Limit).

- ~~2.~~—All submitted claims must include a copy of each trainee’s Certificate of Completion from the training program and a copy of the ~~DHS-Department of Human Services~~ issued ~~CRC-criminal records check~~.
- ~~4.~~ Determination Letter. In accordance with Section 203.1 of the Rules for Conducting Criminal Record Checks for Employees of Long-Term Care Facilities, the facility must complete the criminal record check for each trainee prior to conducting the nursing assistant training or prior to sponsoring the trainee through the “letter for intent to employ” provisions as specified in item A (2) and B (13) of this section.

**5. Reimbursements are not allowed and shall be denied to facilities for the following:**

~~(a)~~ Individuals listed on the ~~Llong-Tterm Ceare Ffacility~~ Employment Clearance Registry with a disqualification status due to a substantiated administrative finding of abuse, neglect, misappropriation of resident property, or a disqualifying criminal record in accordance with Arkansas Code ~~Ann.~~ § 20-38-101 et seq.

~~a.~~

~~(b)~~ Individuals listed on the ~~Llong-Tterm Ceare faelityFacilityLTCE~~ Employment Clearance Registry with an expired certification. These individuals are not required to be retrained and may retest in accordance with Section VII (~~CD~~) (~~16~~) of these rules.

~~b.~~

~~(c)~~ Individuals who, prior to training, did not complete a criminal record check in accordance with Arkansas Code ~~Ann.~~ § 20-38-101 et seq.

- ~~4.6.~~ All claim forms (DMS-755) must be submitted with original signatures of the nursing facility Administrator. Copies will not be accepted.

**D. Maximum Cost Limit**

1. In an effort to establish proper and efficient administration of training costs reimbursements, a reasonable maximum cost limit shall be imposed. Based on analysis of nursing assistant training costs, four hundred eighty dollars (\$480)-00 per student will be the maximum paid to facilities on their claims. This limit shall be imposed based on the number of students who finish the training program. Claims must show actual costs incurred and reimbursements will be made for actual costs but not to exceed the maximum limit of four hundred eighty dollars (\$480)-00 per student who complete the training.

Example: Claim form shows actual costs is \$1250.00 with four (4) students completing the course. As \$1250.00 is less than \$1920.00 (four (4) students

x \$480 = \$ 1920 maximum) the actual costs will be reimbursed. If this example had only two (2) students completing, the maximum would be \$960.00 (two (2) students x \$480) and the reimbursement would be capped at \$960.00 rather than paying the full \$1250.00 actual expenses.

E. Cost Reporting and Record Retention

~~NA-Nursing assistant~~ training costs directly reimbursed by the Department of Human Services shall be included in the nursing facility's annual Financial and Statistical Cost Report (FSR) and shall be reported as revenue offsets to ~~NA-nursing assistant~~ training costs. Facilities must retain receipts ~~or and~~ /documentation of ~~NA-nursing assistant~~ training costs submitted to ~~the Department~~ Department of Human Services for reimbursement for a period of no less than five (5) years or until all audit findings are final. Any facility claiming reimbursement for costs ~~that were~~ not actually incurred, or not properly documented, will be required to provide restitution to the Department of Human Services and will be subject to fines ~~and, or~~ prosecution, or both, as authorized by ~~State-state~~ and ~~/or Federal-federal~~ statutes.

## METHODOLOGY FOR REVIEW OF COMPLIANCE WITH VIRTUAL TRAINING

~~L. —~~ VIRTUAL INSTRUCTION ONLY APPLIES TO LECTURE PORTION OF TRAINING

~~All content taught to students remains the same whether the program offers in-person or virtual instruction. If the program chooses to offer virtual instruction, the expectation of delivery of information remains the same as in-person. Virtual instruction must be indicated on the application and a virtual plan must be submitted to the Department department for approval. If the program fails to meet the guidelines, it will result in temporary suspension, and/or a deficiency, or both. In addition to complying with rules, the following requirements must be met:.~~

~~—~~ A. Requirements

~~1. —~~ A program is subject to inspection of virtual instruction at any time by Department personnel. A program who that provides virtual instruction must have practical capabilities and set forth expectations including, but not limited to, the following:

~~a) —~~ Internet capabilities for the program and the participants;

~~b) —~~ Requirements of logging into the virtual site at least fifteen (15) minutes prior to the beginning of class and staying connected virtually until class ends;

~~c) —~~ A camera that is turned on during instruction.; and

~~d) —~~ Individual logins that must be tracked and maintained for auditing purposes by the Department department;

~~2. —~~ Virtual programs are responsible for ensuring that the Department department has the virtual link to audit compliance with these rules. The link must be functional and active

at all times.

3. ~~All participants must be able to have visible access to observe all curriculum activities (i.e., examples include, but are not limited to, hands-on demonstration, notes on board, and all instruction provided by the program).~~
4. ~~All videos to be viewed must be included in the curriculum for in-person and virtual training.~~
5. ~~All skills labs must be in-person.~~
6. ~~The programs must provide training materials prior to class, including but not limited, web access to materials.~~

F. Nursing Assistant Training Cost Reimbursement Claim Form

The Nursing Assistant Training Cost Reimbursement Claim Form (DMS-755) is specific to each facility.

To obtain a form DMS-755, ~~or~~ email [natpcertification@dhs.arkansas.gov](mailto:natpcertification@dhs.arkansas.gov) or visit: [Department of Human Services – Division of Provider Services & Quality Assurance](#) ~~Arkansas Department of Human Services – DPSQA.~~

1. The following rules for the Long-Term Care Facility Nursing Assistant Training Program are duly adopted and promulgated by the Department of Human Services pursuant to Arkansas Code § 20-10-701 et seq.
2. This initiative is pursuant to the Federal mandates of Public Law 100-203 (the Nursing Home Reform Act, Subtitle C of the Omnibus Budget and Reconciliation Act of 1987 and technical amendments of OBRA 1989 and 1990) concerning the training and competency examination of nursing assistants employed in long term care facilities and the registry of certified nursing assistants.
3. The Federal Omnibus Budget Reconciliation Act of 1987, 1989, 1990, and 1993 (OBRA) and regulations issued by the U.S. Department of Health and Human Services – Centers for Medicare and Medicaid Services (formerly Health Care Financing Administration, or HCFA) established the minimum requirements for nursing assistant training and competency evaluation programs in Section 1819(a) – (f) and 1919(a) – (f) of the Social Security Act.

“Nursing Assistant Training Cost Reimbursement Claim Form

The Nursing Assistant Training Cost Reimbursement Claim Form (DMS-755) is specific to each facility.

To obtain a form DMS-755, or email [natpcertification@dhs.arkansas.gov](mailto:natpcertification@dhs.arkansas.gov) or visit Arkansas Department of Human Services – DPSQA.”

**Rules for the  
Arkansas Long Term Care Facility  
Nursing Assistant Training Program**

**Arkansas Department of Human Services**

**Division of Provider Services and  
Quality Assurance**

**1992**

**(Revised July 1, 2024)**

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## Section I

## PURPOSE

1. To develop and approve training and competency evaluation programs for individuals who provide nursing or nursing-related services to residents in long term care facilities and who are not licensed health professionals nor volunteers who provide services without monetary compensations.
2. These requirements are designed to assist long term care facilities and other educational institutions with training and competency programs for nursing assistants. The objective of the Nursing Assistant Training Program is the provision of quality services to residents by nursing assistants who are able to:
  - (a) Perform certified nursing-aide skills and to assist licensed practical nurses or registered nurses in direct resident care;
  - (b) Form a relationship, communicate and interact competently on a one-to-one basis with the residents as part of the team implementing resident care objectives;
  - (c) Demonstrate sensitivity to residents' emotional, social, and mental health needs through skillful, directed interactions;
  - (d) Assist residents in attaining and maintaining functional independence;
  - (e) Exhibit behavior in support and promotion of residents' rights; and
  - (f) Demonstrate observational and documenting skills needed in support of the assessment of residents' health, physical condition, and well-being.
3. The training program must teach skills to enhance knowledge in promoting healthy functioning of residents both physically and emotionally and focus on the restoration and maintenance of the resident. These attitudes and behaviors of staff must be demonstrated in the facility on a day-to-day basis.

## Section II

## DEFINITIONS

The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise.

- “Abuse” means the willful, knowing, or reckless act of mistreatment of a resident through words or physical action which results in physical, emotional, or mental injury to a resident;
- “Act” means the Public Law 100-203 (the Federal Nursing Home Reform Act, Subtitle C of the Omnibus Budget and Reconciliation Act of 1987) and technical amendments of Omnibus Budget and Reconciliation Act of 1989 and 1990. “Act” may also refer to the Long-Term Care Aide Training Act, Arkansas Code § 20-10-701 et seq.;
- “Additional Instructor” means a registered nurse (RN) or licensed practical nurse (LPN) who, under the general supervision of the primary instructor, may provide classroom and skills training;
- “Centers for Medicare and Medicaid Services (CMS)” means a federal agency that oversees programs including Medicare, Medicaid, the [Children’s Health Insurance Program](#), and the state and federal health insurance marketplaces;
- “Certified Nursing Assistant (CNA)” means individuals trained and certified to help nurses by providing nonmedical assistance to patients, such as help with bathing, dressing, and using the bathroom;
- “Competency Examination” means an examination that includes manual (skills) and written (or oral component for those with limited literacy skills) evaluations;
- “Educational Institution” means an institution that is licensed by the Arkansas State Board of Private Career Education within the Arkansas Division of Higher Education as defined by Acts 1989, No. 906 (examples include but are not limited to career colleges and proprietary schools);
- “Examination” means a competency examination that includes manual (skills) and written evaluations;
- “Facility” means a long term care facility or nursing facility (nursing home) licensed by the Office of Long-Term Care. A nursing facility that provides nursing care and supportive care on a twenty-four (24) hour basis to residents. Facility “premises” include all structures and surrounding property;
- “Facility based program” means a nursing assistant training program offered by or in a long-term care facility;
- “General nursing experience” means experience which may include, without limitation, employment in a nursing assistant education program or employment in or supervision of nursing students in a long-term care facility or unit, geriatrics department (excluding a geriatric psychiatry department), long-term acute care



hospital, home healthcare, hospice care, or other long-term care setting.  
(Arkansas Code § 20-10-702(2)(C)(ii));

- “Guest Speaker” means a registered nurse, licensed practical nurse, or other licensed health professionals who conduct specific classroom lectures based upon an expertise in a given subject area, under the direct supervision of the primary instructor;
- “Licensed health professional” means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, physical or occupational assistant, registered professional nurse, licensed practical nurse, or certified social worker.
- “Misappropriation of resident property” means the taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the effective control of a resident or other appropriate legal authority, or the taking of any action contrary to any duty imposed by law prescribing conduct relating to the custody or disposition of property of a resident.
- “Neglect” means an act of omission or an act without due care which causes physical or emotional harm to a resident or adversely affects the resident’s health, safety, or welfare in any way;
- “Non-facility based program” means a nursing assistant training program not offered by or in a facility (examples include but are not limited to career college, community college, vocational or technical school, and proprietary schools);
- “Nursing assistant” means an unlicensed nursing staff member who assists with basic patient care (such as giving baths, checking vital signs, bed-making, and positioning) to residents in a long-term care facility, who has successfully completed a training or competency evaluation program, and is competent to provide such services, but not an individual who is a licensed health professional or who volunteers to provide such services without monetary compensation;
- “Office” means the Nursing Assistant Training Program within the Division of Provider Services and Quality Assurance;
- “Orientation program” means a program which provides the nursing assistant with explanations of facility structure, policies, procedures, philosophy of care, description of the resident population, and employee rules. This orientation phase is not included as part of the Nursing Assistant Training Program;
- “Petitioner” is a person who appeals a finding that such person has, while acting as a nursing assistant in a facility or while being used by a facility in providing services to a resident, abused or neglected a resident, or has misappropriated a resident’s property;
- “Primary instructor” means an individual who is a registered nurse licensed

in this state to practice, if the registered nurse moves from a state that has joined the Interstate Nurse Licensure Compact, §17-87-601 et seq., to Arkansas and meets all requirements for licensure in Arkansas, does not have any disciplinary action regarding their license by the licensing entity or authority; and possesses a minimum of two (2) years' general nursing experience as a registered nurse including at least one (1) year of long-term care nursing services in a long-term care facility setting within the last five (5) years (Arkansas Code §20-10-702);

- "Resident" means individuals who reside in long-term care facilities that receive a range of services, including medical and personal care.
- "Skills training" means training composed of both skills demonstration in the classroom lab and skills performance in the clinical area with residents in a long-term care facility;
- "Supervised practical training" means pursuant to 42 C.F.R. 483.152, training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered nurse or a licensed practical nurse;
- "Task performance record" means a list of the major duties and skills to be learned in the program and the trainee's performance of each;
- "Trainee" means an individual who is enrolled in a nursing assistant training program and who is not permitted to perform nursing services for residents during the training period for which they have not been trained and found to be competent;
- "Virtual instruction or training" means a method of teaching that is taught either entirely online or when elements of face-to-face courses are taught online through learning management systems and other educational tools and platforms;

### Section III

### NURSING ASSISTANT TRAINING

GENERAL RULE: A facility must not use any individual working in the facility as a nursing assistant for more than four (4) months (meaning one hundred twenty (120) calendar days) unless that individual has successfully completed a training program and competency examination approved by the Department of Human Services as required by the Centers for Medicare and Medicaid Services.

#### A. Training

1. Nursing assistant training programs must include materials that provide a basic level of both knowledge and demonstrable skills for each individual completing the program.
2. Each course must be prepared and administered in accordance with the training course guidelines prescribed in the “Arkansas Long-Term Care Facility Nursing Assistant Training Curriculum.” This curriculum is to be used as a guide for conducting in-person or virtual training in both facility and non-facility programs.
3. These guidelines essentially provide the outline for in-person and virtual training programs and can be enhanced by the inclusion of current information to keep training relevant to changing needs. The content provides fundamental information and leaves open the opportunity for an instructor to function as necessary in response to perceived student requirements. **It is important to recognize that the curriculum guidelines identify the limitations (for example, limitations to the scope of practice) of the long-term care facility nursing assistants’ direct care responsibilities.**
4. Each in-person or virtual training program must use the behavioral stated objectives in the “Arkansas Long-Term Care Facility Nursing Assistant Training Curriculum” for each unit of instruction. These objectives state the measurable performance criteria that serve as the basis for the state competency examination. The instructor shall conduct a review of each unit objective with trainees at the beginning of each unit so that each trainee knows what is expected of them in each part of the training program.
5. Upon successful completion of the required in-person or virtual training, the trainee must pass the state competency examination administered by the Department of Human Services (see 20 CAR § 403-501 et seq.) An individual must complete the state competency examination within twelve (12) months of graduation from a training program or retraining will be required.

#### B. Implementation Requirements

1. Pursuant to 42 C.F.R. § 483.152, a nurse aide training and competency examination program must include, at a minimum, a combination of classroom (in-person or virtual) and clinical instruction. The requirement for state certification shall include a minimum of ninety (90) hours of training which consist of no less than seventy-four (74) clock hours of training, including sixteen (16) hours of supervised practical training, for a total of ninety (90) hours.

2. The clinical site must be a long-term care facility, skilled nursing unit or rehabilitation unit located in an acute care facility, or inpatient hospice unit which has not been disqualified by restrictions as described in Section IV (B).
3. A minimum of sixteen (16) hours initial classroom (in-person or virtual) instruction is required in Part I. This will include both theory instruction and skills demonstration in the classroom lab. During Part I, the trainee is not allowed on the floor as part of a facility's staffing pattern. After completion of Part I, a trainee may be used in a facility's staffing **pattern but only assigned to duties for which they have demonstrated competency**. Documentation of acceptable performance of all skills and duties shall be on file with the Primary Instructor (see item C of this section – Nursing Assistant Trainee Activities).
4. Parts II and III require the completion of the remaining seventy-four (74) clock hours of training consisting of theory, classroom lab, and clinical skills training. Clinical skills training must include at least sixteen (16) hours of supervised practical training in a facility, performing tasks on an individual under the direct supervision of the instructor. Clinical skills training assignment or supervision by another nursing assistant is prohibited.
5. The ratio of trainees to instructors in the in-person or virtual classroom must not exceed twenty-four (24) trainees to one (1) instructor (primary or additional instructor) and the ratio for skills training must not exceed twelve (12) trainees to one (1) instructor.
6. Staff in training can be employed after completing lessons one through eleven (1-11) (for a total of sixteen (16) hours of course work) and may continue to work on the floor while they are actively progressing through a Nursing Assistant Training Program (NATP); however, they cannot be included in the staffing ratio if they are actively participating in class instruction.
7. Each program shall issue a written statement to each trainee, upon successful completion of the program, in the form of a certificate of completion, which shall include the program's name, NATP license number, the student's name and a numerical identifier such as a driver's license number or identification number from a valid government issued document that contains a current photo (such as state or national ID card, alien registration card, military identification, or passport), the begin date and end date, and the signature of the Primary Instructor upon successful completion of the program. Such certificate, or copies thereof, shall serve as evidence of successful completion of a training program to be eligible to take the state competency examination.

C. Nursing Assistant Trainee Activities

1. Each trainee shall wear identification, during all skills training portions, that identifies them as a trainee. Identification must be visible to residents, family members, visitors, and staff.
2. A nursing assistant who has begun a training program and has not completed the program, may be hired by a facility to provide care for which they have received training and demonstrated competence. Nursing assistants are not permitted to perform services for residents during the training period

for which they have not been trained and found by the training program to be competent.

3. Documentation of each trainee's acceptable performance of each skill or procedure must be maintained by the Primary Instructor on the Task Performance Record (DMS-741 form) provided by the Department of Human Services. This record consists of the following:

- (a) Tasks performed (which includes duties and skills completed);
- (b) Satisfactory performance date; and
- (c) The instructor's signature supervising the performance.

4. A program must terminate a trainee when provided with substantial evidence or a determination that the trainee is guilty of resident neglect or abuse, or misappropriation of resident property. The program establishes procedures for a review of the allegations when requested by the trainee. The program shall inform the Department of Human Services of any trainees terminated under these circumstances.

D. In-Person Facilities and Resources

1. The nursing assistant training program shall require the provision of physical facilities as follows:

- (a) Temperatures conducive to the weather;
- (b) Clean and safe conditions;
- (c) Adequate lighting;
- (d) Space to accommodate all students; and
- (e) All Equipment for simulating resident care in a classroom or lecture (See Instructional Equipment under Section X).

2. The physical facilities including classrooms, laboratories, conference space, library, and educational materials shall be adequate to meet the needs of the program, the number of trainees, and the instructional staff.

3. Suggested training materials or resources may include, but are not limited to, a blackboard, flipchart, projector or screen, DVD, anatomical chart, mannequin, bed, and a lavatory or sink.

4. The Department of Human Services will not require or endorse any single textbook or other material (examples include but are not limited to videotape or film).

- (a) There are several resources on the market and each facility or school will have the choice in selecting their textbooks or other training materials.
- (b) The curriculum guide is to be used so each program will know the objectives and procedures expected to be communicated to the nursing assistant trainee for them to pass the state competency examination.

E. Virtual Training: See Virtual Methodology – Section X.

F. Orientation Program

1. All nursing assistants must receive an orientation program that includes, but is not limited to, an explanation of:
  - (a) The organizational structure of the facility;
  - (b) Policies and procedures (including but not limited to disaster plans for example fire, earthquake, flood, tornado);
  - (c) The philosophy of care of the facility;
  - (d) The description of the resident population; and
  - (e) Employee rules.
2. This facility orientation training program is not included in the required ninety (90) hours of nursing assistant training.

G. Ongoing In-Service Training

1. All facilities will continue to provide ongoing in-service training on a routine basis both in groups and as necessary in specific situations on a one-to-one basis. Each nursing assistant must receive one (1) hour of in-service training per month.
2. The facility must complete a performance review of each nursing assistant at least once per year and provide regular in-service training based on the outcome of these reviews. The in-service training should address areas of weakness and be sufficient to ensure the continuing competence of the nursing assistants.
3. In addition to training needs identified by performance reviews, in-service training should also address the special needs of residents as determined by each facility. Training can be received on the unit, as long as it is directed toward skills improvement, provided by appropriately trained staff, and documented (for example, skills demonstration with return demonstration recorded on a check list).
4. Effective July 1, 2006, facilities are strongly encouraged to offer in-service training for nursing-home-employed Certified Nursing Assistants who were certified in Arkansas prior to July 1, 2006, that covers the Barbara Broyles Alzheimer and Dementia Training that is included in Arkansas LTCF Nursing Assistant Training Curriculum. Facilities should maintain records that verify each employee, who was certified in Arkansas prior to July 1, 2006, has received this training. After July 1, 2006, and ongoing, the new Alzheimer's training is strongly encouraged for Certified Nursing Assistants registered in Arkansas through reciprocity from other states and test candidates that are allowed to challenge the State competency test based on exemptions found in Section VI (D).

H. Non-Permanent Employees

Nursing assistants who are employed or leased through a temporary hiring service must have completed an approved training program and passed the state competency evaluation test prior to employment and utilization by a facility.

## Section IV

## APPROVAL OF PROGRAMS

### A. Location

1. Nursing assistant training programs may be offered by or in nursing facilities, as well as outside facilities. The clinical portion of the training must be conducted in all cases and must utilize a nursing facility and its residents. Nursing facilities may offer a complete training program or may contract with another organization (or both) to provide the training unless they are sanctioned. Sanctioned nursing facilities cannot offer the training.
2. Other groups or institutions (examples include but are not limited to employee organizations, vocational or technical schools, community colleges, and private institutions) may conduct programs upon the Department of Human Services' approval.
3. Programs offered to the public and charging a tuition fee must submit an application and be approved by the Department of Human Services before they can be licensed through the State Board of Private Career Education. This provision would not apply to the state schools (such as a vocational, technical, or community college) or programs offered by long-term care facilities who train their own employees (or potential "on-call" employees).

### B. Restrictions

1. The Department of Human Services shall not approve a program offered by or in a nursing facility which, in the previous two years, has done the following:
  - (a) Operated under a waiver of the nurse staffing requirements in excess of forty-eight (48) hours during the week;
  - (b) Been subjected to an extended survey\* or partially extended survey\*\*; or
  - (c) Been subjected to a civil money penalty of no less than \$5,000, denial of payment for new admissions, appointment of temporary management, closure, or transfer of residents to another facility.

\* "Extended survey" is defined for this provision as a survey which includes a review of facility policy and procedures pertinent to Level A deficiencies in Resident Rights, Resident Behavior and Facility Practices, Quality of Life, or Quality of Care.

\*\* "Partial extended survey" is defined as a survey conducted as a result of a deficiency in Level A requirements other than those listed above in the extended survey definition.

2. Facility-based training programs are prohibited from charging tuitions or training fees to their nursing assistant employees or those who have received an offer of employment for any portion of the program (including any fees for textbooks or other required course materials) (See Reimbursements under Section X).

C. Application

1. Each facility or entity that desires to offer a program shall file an Application for Program Approval form prescribed by the Department of Human Services (Form DMS-724). Application forms are available on the [Department of Human Services - Division for Provider Services and Quality Assurance website](#) or you can request an application by emailing: [natpcertification@dhs.arkansas.gov](mailto:natpcertification@dhs.arkansas.gov)
2. An outline, showing the lesson plans and teaching modules utilized to cover the curriculum contents, must be attached to the application. This should specify the elements covered in each module, hours of classroom theory, hours of lab (return demonstrations), and hours in the clinical area in a nursing home. Each facility's application must also include the following:
  - (a) PI Resumes or work history to establish long-term care experience;
  - (b) AI resume or work history to establish long-term care experience;
  - (c) Waiver letter from the Department of Human Services if utilizing a sanctioned long-term care facility;
  - (d) Professional license verification; and
  - (e) Additional information, as requested by the Department of Human Services.
3. When applicable for renewals, verification of school licensure by the Arkansas State Board of Private Career Education within the Arkansas Division of Higher Education (ADHE) will be required. A notarized copy of the school licensure must be included with applications for new programs and for renewal of programs. Notification to the division, verifying additional instructors and any changes in instructors, will be required with each application.
4. Application must be submitted to the Department of Human Services and approved by the Department of Human Services prior to the start of the first course.
5. An application must be completed and signed by the primary instructor.
6. Applications that are received incomplete may cause postponement of the program starting date. A notice of deficiency in the application will be mailed to an applicant within fifteen (15) business days of the date of filing. The applicant will be given an opportunity to correct any deficiencies.
7. Notice of approval or disapproval of the application will be given to the entity within fifteen (15) business days of the receipt of a complete application. If the application is to be disapproved, the reasons for disapproval shall be given in the notice.
8. An applicant may request a review on a disapproval in writing within ten (10) business days of receipt of the notice of the proposed disapproval to the Director of the Division of Higher Education. If no request is made, the entity is deemed to have waived the opportunity for a hearing.

D. Changes in Programs



1. Prior to major changes in the course, an application must be resubmitted for approval.
2. Major changes include, but are not limited to:
  - (a) Change in training provider;
  - (b) Change in delivery site (such as, from classroom to virtual);
  - (c) Change in clinical site;
  - (d) Change in instructor; and
  - (e) Complete revision of course structure, including change in hours allotted to one (1) or more modules.
3. Major changes do not include:
  - (a) Change in materials (such as, handouts, textbooks, or videos);
  - (b) Change in order in which modules are taught; or
  - (c) Addition of modules or tasks not required by rules or guidelines.

E. Withdrawal of Approval

1. Provisions for monitoring and review of compliance with program requirements are specified in this part. The Department of Human Services shall withdraw approval of a training program when:
  - (a) The program has one (1) or more restrictions;
  - (b) The entity offering the program refuses to permit visits by the Department of Human Services, whether announced or unannounced (any facility that refuses to permit unannounced visits is subject to having its provider agreement terminated);
  - (c) The program's curriculum and implementation requirements specified in these rules are not met by the program;
  - (d) The program has an excessive failure rate for trainees on the state competency evaluation test over a three (3) year period and after opportunities to address the failure rate through enhanced monitoring;
  - (e) Renewal is not completed prior to renewal date. NATP approval will be suspended until renewal is completed and approved;
  - (f) The program makes or causes to be made any false statement or representation of a material fact used in determining rights or any application for payment by any entity for reimbursement of training costs as allowed in Section X of these rules;
  - (g) The program makes or causes to be made any false statement or representation that training was provided when training was not provided;
  - (h) The program makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of the program in order for the program to qualify either upon initial approval or re-approval;
  - (i) The program makes or causes to be made any false statement or

representation that the amount of training costs is greater than the actual cost of the training to obtain Medicaid reimbursement, as allowed in Section X of these rules, that exceeds the actual cost of training;

- (j) The program makes or causes to be made any false statement or representation of a material fact in violation of these rules; or
- (k) The state determines that any of the applicable requirements of 42 C.F.R. §483.152 or 42 C.F.R. §483.154 are not met by the program.

2. When the state withdraws approval of a nurse aide training and competency evaluation program or competency evaluation program:

- (a) The state must notify the program in writing, indicating the reason(s) for withdrawal of approval from the program; and
- (b) Students who have started a training and competency evaluation program from which approval has been withdrawn must be allowed to complete the course.

3. The program may file for a reconsideration of the withdrawal of approval of a nurse aide training and competency evaluation program within ten (10) business days of the notification. The reconsideration shall be forwarded to the Division of Higher Education.

A. Primary Instructor

1. The primary instructor shall:
  - (a) Be a registered nurse currently licensed in Arkansas or licensed under a compact license, or holding a multistate privilege to practice if the registered nurse moves from a state that has joined the Interstate Nurse Licensure Compact, Arkansas Code § 17-87-601 et seq., to Arkansas and meets all requirements for licensure in Arkansas;
  - (b) Not be under any current disciplinary action by the Arkansas State Board of Nursing. Disciplinary action includes, but is not limited to, probation, suspension, revocation, or voluntary surrender of license due to disciplinary action; and
  - (c) Possess a minimum of two (2) years' general nursing experience as a registered nurse including at least one (1) year of long-term care nursing services in a nursing facility setting within the last five (5) years. (Arkansas Code § 20-10-702).
2. Nursing experience may include, but is not limited to, employment in:
  - (a) A Nursing assistant education program;
  - (b) A long-term care facility, or the supervisor of nursing students in a long-term care facility or unit;
  - (c) A geriatrics department (excluding geriatric psychiatry); or
  - (d) A long-term acute care hospital (recuperative care), home care, hospice care, or other long-term care setting.
3. In a facility-based program, the training of nursing assistants may be performed under the general supervision of the director of nursing (DON), who is prohibited from performing the actual training (unless replacement DON coverage is provided).
4. An individual who will be the Primary Instructor and meets the above criteria must submit the Application for Program Approval (Form DMS-724) to identify their teaching qualifications. This must include nursing experience, supervisory experience, and either teaching experience or certificate of attendance in an instructor workshop.

B. Primary Instructor Responsibilities

1. There must be only one (1) Primary Instructor (PI). A Primary Instructor may oversee a maximum of four (4) sites. All questions and correspondence pertaining to the site will be directed to the PI. The PI shall participate in the planning of each lesson or teaching module, including clinical instruction, whether or not the PI teaches the lesson.

2. The primary instructor of a nursing assistant training program shall be responsible for supervision of the program and ensuring that the following requirements are met:

- (a) Course objectives are accomplished;
- (b) Each trainee exhibits the appropriate skills and knowledge to conduct any part of the training;
- (c) That each instructor is monitored and evaluated in the classroom, learning laboratory and clinical training whenever they are teaching an assignment or introducing material for the first time, and at periodic intervals. Performance reviews of instructors must be documented and maintained.
- (d) The provision of direct individual care to assigned residents by a trainee is limited to appropriately supervised clinical experience. Instructors shall serve as supervisor of trainees while in clinical areas and providing resident care.
- (e) Each trainee shall demonstrate competence in clinical skills and fundamental principles of resident care. The task performance record must be approved and signed or initialed by the primary instructor.
- (f) Records are kept in order to verify the participation and performance of each trainee in each phase of the training program. Satisfactory completion of the training program shall be attested on each trainee's record.
- (g) Each trainee is issued a certificate of completion within ten (10) calendar days of course completion and as described in Section IV (B) (6) of these rules.

C. Additional Instructor or Guest Speaker

- 1. Instructors may use other qualified resource personnel from the health field as guest instructors or speakers in the program to meet the objectives for a specific unit. Examples include but are not limited to pharmacists, dietitians, social workers, sanitarians, advocates, gerontologists, nursing home administrators, and nurse aid program staff. Guest instructors must have a minimum of one (1) year of experience in their respective fields and must not have current disciplinary action by their respective regulatory board.
- 2. Additional Instructors such as registered nurses or licensed practical nurses may be used to provide instruction, skills training, or supervision. They must be under the general supervision of the primary instructor, currently licensed in Arkansas and shall not be subject to any current disciplinary action by the Arkansas State Board of Nursing. Disciplinary action includes, but is not limited to, probation, suspension, revocation, or voluntary surrender of license due to disciplinary action, and have a minimum of one (1) year of long-term care experience. All final skills check-off reviews must be approved by the primary instructor.
- 3. The Application of Program Approval (Form DMS-724) shall be used to identify each additional instructor or guest speaker and their qualifications to teach.

## Section VI      REQUIREMENTS FOR EXAMINATION AND CERTIFICATION

### A.      Transition

The initial implementation of these training and examination requirements has covered three basic phases:

#### 1.      Deemed equivalence waivers -

A nursing assistant shall be deemed to have satisfied the requirement of completing a training and competency examination program approved by the state if the nursing assistant:

- a.      Completed a program that offered a minimum of sixty (60) hours of nursing assistant training before July 1, 1989, and if such received before July 1, 1989, up to fifteen (15) hours of supervised and practical nursing assistant training or regular in-service nursing assistant education (initial training must be at least seventy-four (74) hours of classroom instruction, as well as sixteen (16) hours of supervised practical training, a total of ninety (90) hours); or
- b.      Completed a course of at least one hundred (100) hours of nursing assistant training and was found competent, whether by the state or not, before January 1, 1989; or
- c.      Has served as a nursing assistant at one (1) or more facilities of the same employer in the State for at least twenty-four (24) consecutive months before December 19, 1989.

Individuals will not qualify for these waivers if they have not provided nursing or nursing-related services for a period of twenty-four (24) months or longer since completing training. They will be required to complete a new training program and state examination to obtain current certification.

Facilities who wish to obtain certification for the above-described individuals should submit the Department Interstate Transfer Form (DMS-798), with attached copies of documents or certificates verifying course completion and the number of hours in a course.

#### 2.      Employment Status as of July 1, 1989 -

All individuals working as nursing assistants in Arkansas nursing facilities as of July 1, 1989, were allowed to become certified by passing the state examination. These individuals were not required to complete the ninety (90) total hours of training. These ninety (90) hours consisted of seventy-four (74) hours of "formal" classroom training course, as well as sixteen (16) hours of supervised practical training.

After October 1, 1990, nursing assistants must now complete the ninety-(90) hour training requirements to qualify to take the state examination, regardless of past employment status on July 1, 1989.

3. July 1, 1989 - Ongoing -

Effective July 1, 1989, a facility must not use any individual working in the facility as a nursing assistant for more than four (4) months (one hundred twenty (120) calendar days) unless they have successfully completed a training program and competency examination, approved by the Department of Human Services, as described in these rules.

B. Examination

1. The Department of Human Services or its appointed agency shall be responsible for administering the competency examination. The examination shall be based upon the training curriculum requirements specified in the Long-Term Care Facility Nursing Assistant Training Curriculum Guide.
2. The examination will be in English. Translation of this examination will be offered, if needed. Additional accommodations can be made by the Department of Human Services or contractor based on a documented need; however, an additional fee may be required.
3. The competency examination shall consist of two (2) components, a written (or oral) examination and a skills demonstration. Each examination candidate will be allowed to choose between a written or oral examination. The oral examination will be read from a prepared text in a neutral manner.
4. Foreign language translation dictionaries must be shown to the registered nurse test observer at check-in and to the Knowledge Test Proctor when entering the knowledge test room. No electronic dictionaries are allowed. No definitions or instances of writing are allowed in the translation dictionary. If there are any definitions or instances of writing, the translation dictionary will not be permitted to be used during testing.
5. The written or oral component shall be developed from a pool of examination questions. Only a portion will be used in the exam. The skills demonstration shall consist of five (5) randomly selected questions drawn from a pool of tasks ranked based on the level of difficulty.
6. The skills demonstration component will be performed in a facility (not disqualified by criteria specified in Section V, item B.) or laboratory setting.
7. The skills demonstration will be administered and evaluated by a registered nurse (RN) with at least one (1) year experience in providing care for the elderly or chronically ill.
8. The skills demonstration component may be proctored by facility or training site personnel (RNs as described above) if secure, standardized, and scored by the contractor approved by the Department of Human Services. Proctoring will not be approved in facilities prohibited as specified in Section V item B.
9. To complete the competency examination successfully, an individual must pass both the written or oral examination and the skills demonstration. If an individual does not complete the examination satisfactorily, they will be advised of areas which they did not pass and their right to take the examination two (2)

more times.

10. All candidates will be allowed up to three (3) attempts, within a twelve month period, to successfully complete all portions of the competency examination. Failure after three (3) attempts will require retraining in order to qualify to sit for the competency examination. An individual has twelve (12) months to successfully pass the test after retraining.

11. Any trainee who is employed by any long-term care facility and fails any portion of the competency examination after three (3) attempts is prohibited from providing nursing services to residents in a long-term care facility.

Based on the program rules, these individuals may maintain their employment status if they re-enroll in a new training program. They would be required to follow the program implementation requirements of completing the first sixteen (16) hours (Part I) of training, prior to direct resident contact, and can only be assigned job duties thereafter in which they have been deemed competent to perform as they complete the remainder of the full ninety (90) hours of training. Upon successful completion of their training, they should be scheduled for the next available competency examination.

12. All individuals who successfully complete the examination shall be placed on the CNA registry and issued a state certificate. Information on the registry shall be made available for public inquiry (see Section VIII).

C. Examination Fees, Dates, and Locations

1. The Department of Human Services does not require an initial fee for this occupational license; however, there is a fee to take the state examination. The amount of the examination fee will be announced in a timely manner by the Department of Human Services or designated contractor.
2. If there were to be an initial fee, per Arkansas Code Annotated §17-5-104, the following individuals would not be required to pay an initial fee for this license:
  - a. An individual receiving assistance through the Arkansas Medicaid Program, the Supplemental Nutrition Assistance Program, the Special Supplemental Nutrition Program for Women, Infants, and Children, Temporary Assistance for Needy Families Program, or the Lifeline Assistance Program;
  - b. An individual who was approved for unemployment within the last twelve (12) months; or
  - c. An individual who has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.
3. The waiver of the initial fee does not include fees for:
  - a. A criminal background check;
  - b. An examination or a test; or
  - c. A medical or drug test.

4. The examination will be given at multiple sites geographically dispersed throughout the state. Schedules of times, locations, and registration requirements will be announced in a timely manner by the Department of Human Services or designated contractor.
5. The competency examination (including written, oral, and skills components) may be administered in the facility of the candidate's employment unless the facility is disqualified by the Department of Human Services under criteria specified in Section V, item B.
6. Each candidate must have appropriate verification of the training requirements (see item D of this section and Section IV of these rules).
7. The Department of Human Services will be responsible for paying the examination fee one (1) time for individuals who are employed by a Medicaid certified long-term nursing facility or those individuals that have a commitment ("letter of intent" as defined in Section X (A) (2) of these rules) to be employed in a Medicaid certified nursing facility. Letters of intent to hire from Medicaid certified nursing facilities must be dated within twelve (12) months immediately preceding the date of the application to take the examination. Independent examination candidates who are taking the competency examination without an employment connection to a long-term care facility will be responsible to pay their own examination fee. In accordance with 42 C.F.R. § 483.154, no nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide competency examination program may be charged for any portion of the program.
8. If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than twelve (12) months after completing a nurse aide training and competency examination program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

D. Candidate Qualifications

The following is a list of qualifications for the state competency exam.

1. Nursing assistants who were trained in **approved** non-facility programs (for example: career colleges, vocational or technical schools, or proprietary schools) after January 1, 1989.
2. Nursing assistants who were trained in **approved** facility (nursing homes) programs after July 1, 1989.
3. Registered nurses or students who have finished the basic nursing course (for example: Introduction to Nursing, or Fundamentals of Nursing). The individual must provide a copy of their school transcript, or documentation showing successful completion of the basic nursing course, to qualify for the state competency examination.
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 examination.

5. Home health aides who have met appropriate federal training or examination requirements for home health aide certification. Verification must show completion of a minimum of seventy-four (74) hours classroom training, and sixteen (16) hours of supervised practical training, or federal testing requirements as a home health aide. This provision does not apply to "personal care aides" as their training requirements of forty (40) hours do not meet the ninety-hour requirement for the Long-Term Care Facility Nursing Assistant Training Program.
6. Individuals from other states who can verify completion of a state approved geriatric nursing assistant training program but were not tested and registered. If registered in the other state, see Section VIII for reciprocity transfers without further examination. Verification of course completion rests with the individual and must be submitted to the DHS designated contractor for approval to take the Arkansas competency examination.
7. Nursing assistants whose certification has become inactive based on the recertification requirements (see Section VIII, item C). These individuals shall be required to be retested for recertification. Permission for retesting shall require an "admission slip" obtained from the examination agency prior to the specified examination date.

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

All other individuals trained in programs that have not received approval from the Department of Human Services 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, on-the-job training, or in-service training, as they are not acceptable in lieu of the approved training program.

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

1. Pursuant to Arkansas Code § 17-4-101 et. seq., the following rules apply to licensure for uniformed service members, uniformed service veterans, and their spouses for licensure as defined below:
  - 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; and
  - c. The spouse of:
    - i. A uniformed service member stationed in the State of Arkansas;
    - ii. A uniformed service veteran who resides in or establishes residency in the State of Arkansas;
    - iii. 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
- iv. A uniformed service member who is killed or succumbs to their injuries or illness in the line of duty if the spouse establishes residency in the state.

## 2. Automatic Certified Nursing Assistant Licensure:

Automatic Certified Nursing Assistant licensure will be provided to current license holders 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 the following:
  - i. Completion of an application with all required forms;
  - ii. Submission of DD 214-DD 214/Separation Documents;
  - iii. Submission of DMS-798-Interstate Transfer Form/CNA Reg. Exemption/Reciprocity Request;
  - iv. Submission of an image or copy of individuals social security card;
  - v. Submission of an image or copy of valid United States government issued photo identification; and
  - vi. Proof of service education, training, experience, and service-issued credentials by means of a Joint Service Transcript.
- 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; and
  - ii. A holder in good standings with Certified Nursing Assistant licensure within a similar scope of practice by another state, territory, or district of the United States.

## 3. Temporary or Provisional Certified Nursing Assistant Licensure:

A temporary or provisional Certified Nursing Assistant licensure will be granted to a uniformed service member, or their spouse, or a uniformed service veteran, or their spouse, while expediting full licensure, when considering an application for initial licensure. The Department of Human Services will consider education, training, national certification, experience, and service issued credentials of uniformed service members and uniformed service veterans that are applying for initial certified nursing assistant licensure. The following criteria will be classified as meeting service education, training, national certification, experience, and credentials;

- a. Ninety (90) hours of approved education, training, or experience in healthcare; or
- b. Passing the Arkansas nurse aide testing with three (3) given attempts within one hundred eighty (180) days post application.

## 4. Extension of License Expiration and Continuing Education Requirements Uniformed Service Members, Uniformed Service Veterans, and Their Spouses:

The Department of Human Services will extend the expiration date and any continuing

education requirements for Certified Nursing Assistant licensure renewal for a deployed uniformed service member or their spouse as follows:

- a. An extension of the expiration date of a Certified Nursing Assistant 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 from the uniformed service member's return from deployment.

The Department of Human Services may require evidence of completion of continuing education before granting a subsequent Certified Nursing Assistant licensure or authorizing the renewal of a Certified Nursing Assistant licensure to allow full or partial exemption from continuing education requirements.

5. Uniformed service members, veterans and spouses who successfully meet the criteria and standards within the provisions shall be placed on the Certified Nursing Assistant registry and issued a state certificate. Information regarding military member licensure can be found on the [Department of Human Services-Division of Provider Services and Quality Assurance](#) website.

F. Automatic Occupational Licensure of Out of State Individuals

1. Pursuant to Arkansas Code Annotated § 17-7-101 et seq., a Nursing Assistant from another state may qualify as a Nursing Assistant in Arkansas if they meet the following criteria and provide documentation that reflects this:
  - a. They do not have a disqualifying criminal offense under Arkansas Code Annotated § 17-3-102 or any additional state law relating to the occupational licensure;
  - b. They do not have a complaint, allegation, or investigation pending for their occupational activity; or
  - c. They are in good standing for one (1) year with an occupational licensure of similar scope of practice issued by another state, territory, or district of the United States; or they have worked:
    - i. In another state, territory, or district of the United States that does not use an occupational licensure to regulate an occupation or profession but is regulated by occupational licensure in this state; and
    - ii. At least three (3) years in the occupation.
2. An individual who is granted automatic occupational licensure under these Rules shall meet all other occupational licensure requirements for a resident of this state and all renewal requirements of the occupational licensure, including without limitation a criminal background check and continuing education hours.
3. The Department of Human Services may require an applicant to pass an examination.
4. The Department of Human Services shall require an applicant to furnish a bond, financial statement, or proof of insurance coverage, if required by state law.

A. Function and Content

1. The Department of Human Services shall establish and maintain a registry of all individuals who have satisfactorily completed the training and competency examination program requirements. The nursing assistant registry shall be incorporated into the long-term care facility employment clearance registry which shall include substantiated administrative findings of abuse, neglect, or misappropriation of resident property for Certified Nursing Assistants.
2. The information in the registry shall be made available to the public and open for inquiries twenty-four (24) hours per day, seven (7) days per week, except for scheduled maintenance or at times of technical problems, by computer through an online website system (see Subsection B of this section).
3. The certified nursing assistant registry record, for each individual who has successfully obtained certification as a long-term care facility nursing assistant shall contain the following information:
  - (a) Individual's full name;
  - (b) Date of birth;
  - (c) Name and date of the successfully completed state-approved training program;
  - (d) Certification number and date of issuance;
  - (e) Current active or inactive status; and
  - (f) Most recent recertification date.
4. The Department of Human Services shall review and investigate allegations of neglect, abuse, or misappropriation of resident property by a nursing assistant. A nursing assistant shall be given written notice by the Department of Human Services of a finding on an allegation and must request, in writing, a formal hearing within thirty (30) days of receipt of the notice, or the right to a hearing shall be waived. Following any appeal, the registry and the nursing assistant shall be notified of the findings. If the finding is substantiated either by the individual's failure to appeal or by issuance of a final administrative order, the registry shall include the documented findings involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. (See item D of this section for the process to petition to remove findings of neglect.)
5. The Department of Human Services, in the case of inquiries to the registry, shall verify if the individual is listed in the registry and shall disclose any information concerning a finding of resident neglect, resident abuse, or misappropriation of resident property involving an individual listed in the registry. It shall also disclose any statement by the individual related to the finding or a clear and accurate summary of such a statement.

B. Inquiry Process

1. A facility must inquire of the registry as to information in the registry concerning any individual to be used as a nursing assistant. A facility may not

use an individual as a nursing assistant until registry inquiry and clearance is obtained. Registry inquiries shall be performed within five calendar days of the offer of employment and prior to any resident contact. A facility must document all inquiries and must include such documentation in the personnel file of each nursing assistant used by the facility.

2. Registry clearance shall be obtained by computer access to the online website system. The URL address to the online website system shall be issued by the Department of Human Services, or its designated agent, and may be subject to change. If needed, facilities should contact the Department of Human Services for the latest website information.
3. The online website system will maintain an internal log of each inquiry made by Arkansas nursing facilities using a numeric code (registry identification number) assigned to each facility. The internal log shall be monitored by the Department of Human Services to verify each facility's compliance with inquiry requirements.
4. The online website system is capable of providing a printable registry clearance verification report document for the nursing facility's use in record keeping. The facility shall be required to print the registry clearance report and maintain this report in the employee's personnel file.
5. Registry clearances accessed through the online system require the nursing assistant's Social Security Number and date of birth. Facilities must have the social security number or certification number in order to ensure an accurate inquiry.

**Name searches are possible on the online system but accuracy is not assured. Name searches may also be obtained by calling the Department of Human Services. Please note, however, that name searches by calling the Department of Human Services do not generate a verification log of the clearance. Therefore, facilities shall avoid the use of name searches when the need for documentation and accuracy of the registry check is required.**

C. Certification Renewal

The initial certification period is valid for twenty-four (24) months. Each certificate contains an expiration date. The Department of Human Services will develop a plan and procedure to renew each nursing assistant certification listed in the registry on a biennial basis (every two years). The renewal process will require the nursing assistant to document having worked as a nursing assistant for monetary compensation during the prior two (2) years. This provision shall be defined by at least one (1) documented day (meaning, eight (8) hours) of employment providing nursing or nursing-related services for monetary compensation in any setting.

Certified Nursing Assistants who provide services for private pay clients must include a check stub and a notarized letter from the employer, which should include Certified Nursing Assistant duties performed within the twenty-four-month period, to verify current employment or employment within the last twenty-four-month period.

1. Employing facilities and/or individuals shall be required to submit updated information to the registry to establish ongoing eligibility for active

status. The registry shall make "inactive" those individuals who cannot document having worked in an aide capacity within a twenty-four (24) month period. Nursing assistants who are currently employed as a nursing assistant at the time of their renewal will be renewed for twenty-four (24) months. Nursing assistants who are not currently employed will be renewed for twenty-four (24) months beginning with the last day employed as a nursing assistant. A certification that has been expired for a period longer than twenty-four (24) months cannot be renewed and the individual shall retest and complete sixteen (16) hours of clinical training to re-certify to an active status.

2. An individual will be required to successfully complete a new competency evaluation test to become recertified (see Section VI, item D, number 7), if documentation of having worked in an aide capacity within the previous twenty-four (24) month period cannot be provided, or for any certification that has been expired for over twenty-four (24) months.
3. The process to renew a nursing assistant certification shall be overseen by the Department of Human Services or its agent. Each certified nursing assistant shall be responsible for renewing their certification online approximately sixty (60) calendar days before the expiration of their certification.
4. Individuals listed on the long-term care facility employment clearance registry with a disqualification status due to a substantiated administrative finding of abuse, neglect, misappropriation of resident property, or a disqualifying criminal record in accordance with Arkansas Code § 20-38-101 et seq. shall not be eligible to renew their certification. Individuals approved for removal of a neglect finding pursuant to Section VII, Item D, shall be eligible to renew their certification.
5. Nursing assistant certifications may not be renewed more than sixty (60) calendar days prior to the expiration date.
6. Renewals may be completed through the online website. The Department or its designated agent shall provide instructions for the online renewal process.
7. The Arkansas Nursing Assistant Registry renewal must be fully completed by the Certified Nursing Assistants, and the information must be accurate to the best of their knowledge. Failure to fully complete the renewal or provide false or inaccurate information shall constitute the basis for denial of certification renewal.
8. When a nursing assistant renewal is processed and the nursing assistant is determined to be eligible for renewal, a new certificate showing the new expiration date will be available online for the Certified Nursing Assistant to print and their registry record shall be updated to reflect the new certification period.

D. Petition to Remove Neglect Findings

Pursuant to federal law 42 U.S.C. § 1395i-3(g)(1)(D), in the case of a finding of neglect under Subsection A of Section VII of these rules, the Department of Human Services shall establish a procedure that permits a certified nursing assistant to petition for the removal of a substantiated finding of neglect.

1. Factors that must be met are:
  - a. The certified nursing assistant must have a substantiated finding of neglect. There shall not be a petition process available for substantiated findings of physical abuse, verbal abuse, or misappropriation of resident property.
  - b. The Department of Human Services makes a determination that the petitioner's employment and personal record does not reflect a pattern of abusive behavior or neglect. Factors to be considered shall include, but shall not be limited to:
    - i. The neglect that resulted in a finding was a singular occurrence as identified in the incident investigation file;
    - ii. The petitioner does not have a criminal conviction related to neglect, abusive behavior, or physical violence;
    - iii. The petitioner's name does not appear on the Adult and Long-Term Care Facility Resident Maltreatment Central Registry or the department or the Division of Children and Family Services' Child Maltreatment Central Registry;
    - iv. Whether a pattern of abusive behavior or neglect is discovered through reference checks with prior employers or other parties; and
    - v. Character references as provided by the petitioner.
  - c. At least one (1) year has passed since the petitioner's substantiated finding of neglect was placed on the registry.
2. The procedure to file for a petition to remove a neglect finding shall include the following:
  - a. Petitioner shall submit a letter requesting the removal of the neglect finding. The letter shall be addressed to:

Division of Provider Services and Quality Assurance  
Nursing Assistant Training Program  
Mail Slot S-405, P.O. Box 8059  
Little Rock, AR 72203-8059
  - b. The petitioner must provide the following information with their request letter:
    - i. Full name and current mailing address;
    - ii. Daytime phone number;
    - iii. Social Security Number;
    - iv. Date of birth;
    - v. Name and daytime phone number of at least two (2) personal character references;
    - vi. Letters of reference from any employment within the previous year from the date of the petition. This letter must include a statement attesting to the petitioner's work performance in relation to the lack of any incidents involving abusive or negligent behavior; and

- vii. A current criminal record report from the Arkansas State Police. If the petitioner is currently or has recently (within the previous twelve (12) months) lived in another state, a criminal record report must be provided from that state. All criminal record reports must be an original document and copies will not be accepted.
3. The Department of Human Services shall review each petition for consideration for removal of the neglect finding. The review shall be conducted by an administrative review panel consisting of at least three (3) members appointed by the Director of the Division of Provider Services and Quality Assurance. The panel shall meet within thirty (30) days of any petition. The review panel shall consider all information submitted by the petitioner and may conduct additional research as needed.
4. The review panel shall render a decision within thirty (30) calendar days of the panel's review, and the petitioner shall be notified in writing within ten (10) business days of the review committee's final determination.
5. If the petition to remove the neglect finding is approved, the registry shall be updated within ten (10) business days to show the petitioner no longer has the neglect record and shall be eligible for employment in Arkansas long term care facilities. Note that any Certified Nursing Assistant whose certification has been expired for over twenty-four (24) months must successfully complete the state competency test to re-establish employment eligibility as a certified nursing assistant.
6. Any applicant whose petition has been denied may not re-apply for a subsequent Petition request for a period of at least twelve (12) months from the date of the previous denial.
7. If the petition to remove the neglect finding is denied by the review panel, any further appeals of the committee's determination shall be based on the appeals procedures as listed below:
  - a. Administrative hearings are available to persons, herein referred to as petitioners, who disagree with determinations to deny a petition to remove a neglect finding made by the Department of Human Services as described in these rules.
  - b. If a petitioner wishes to appeal, they may do so by mailing a written notice of appeal to:

Office of Appeals and Hearings  
Arkansas Department of Human Services  
P.O. Box 1437-Slot S101  
Little Rock, Arkansas 72203

The notice shall be mailed by certified mail, with return receipt requested.  
The notice of appeal shall state the following:

- i. Name of the petitioner;
- ii. Address of the petitioner;



- iii. Date of birth of the petitioner;
  - iv. Phone number, if any, of the petitioner;
  - v. The petitioner's place of employment; and
  - vi. A short statement explaining why the petitioner believes the determination or decision is in error.
- c. The notice of appeal must be postmarked by the Office of Appeals and Hearings within thirty (30) calendar days from the receipt of the notification of denial of the petition. No appeal shall be accepted after thirty (30) calendar days of receipt of the determination or decision.
- d. A hearing shall be conducted by the Department of Human Services Office of Appeals and Hearings. The procedures to conduct the hearing are as follows:
- i. The hearing record will contain all documents, exhibits and testimony admitted into evidence by the hearing officer. Within twenty (20) calendar days of receipt of notice that a Petitioner has requested a hearing, the Petitioner and the Department of Human Services will prepare a file to be submitted to the Office of Appeals and Hearings and mail a copy of the file by certified mail, return receipt requested, to the other party. The file will contain only documentary evidence supporting or tending to support each party's allegations. The Department of Human Services will also submit an administrative hearing statement summarizing the determination or decision. This statement is not evidence. Only such portions of each file as determined by the hearing officer to be relevant shall be included in the administrative hearing record.
  - ii. Both parties will be advised by the Office of Appeals and Hearings via certified mail, return receipt requested, that they have ten (10) calendar days from the date the certified mail receipt was signed in order to review the hearing file and submit a request to subpoena witnesses. The request shall include the name, address, and telephone number of all witnesses not employed by the Department of Human Services. Department of Human Services employees will be expected to attend hearings and present testimony without the benefit of a subpoena and will be notified by the Office of Appeals and Hearings of their required presence at the hearing. Each party will be notified of any witnesses requested and will have five (5) business days from the receipt of this notice to request subpoenas for rebuttal witnesses. The Department of Human Services, Office of Chief Counsel, will issue the subpoenas, pursuant to the terms and authority of Arkansas Code § 20-76-103.
  - iii. After the time frame has expired for subpoenaing witnesses, the hearing officer will schedule the hearing to afford the petitioner, the Department of Human Services, and their attorneys, if any, at least ten (10) calendar days' notice of the date, place, and time of the hearing. The scheduling letter, sent via certified mail with return receipt requested, shall also contain the name of the hearing officer who will conduct the hearing. In the event that the petitioner, the Department of Human Services representative, or an attorney representing the petitioner suffers from

illness or cannot attend the hearing due to scheduling conflicts, that party may request the hearing be continued. The hearing will be rescheduled by the hearing officer upon a showing of good cause. A request for continuance made by the petitioner or the petitioner's attorney will constitute a waiver of any objection as to timeliness of the hearing. In each case, the hearing and hearing record must be completed within one hundred twenty (120) calendar days of receipt of the request for a hearing.

- iv. The hearing will take place at a place, time, and manner determined by the Office of Appeals and Hearing. Hearings may be conducted by telephone, by personal appearance of the parties, or by record review by the Office of Appeals and Hearings.
- v. If the petitioner fails to appear for the hearing when conducted by telephone or by personal appearance of the parties and does not contact the Office of Appeals and Hearings prior to the date of the hearing of their inability to attend, the appeal will be deemed abandoned. The petitioner will be advised of this fact in the scheduling letter.
- vi. It is the responsibility of the Department of Human Services to designate a representative prior to the time of the hearing. The representative should be familiar with the circumstances of the determination or decision and be able to summarize the pertinent aspects of the situation and present the documentation to support the basis for the determination or decision. The representative should also be able to answer questions posed by the Petitioner or the hearing officer relative to the issues and should be prepared to cross-examine adverse witnesses. The representative may request the services of an Office of Chief Counsel attorney for representation at the hearing.
- vii. If any party is to be represented by an attorney, notice shall be given to all parties and to the Office of Appeals and Hearings at least ten (10) calendar days prior to the hearing. Failure to furnish notice shall entitle other parties to a continuance to obtain counsel. Petitioner's failure to furnish notice shall constitute a waiver of objection as to timeliness of the hearing.
- viii. The hearing will be conducted by a hearing officer from the Office of Appeals and Hearings who had no part in the determination or decision upon which the hearing is being conducted.
- ix. The petitioner may be accompanied by friends or other persons and may be represented by a friend, legal counsel, or other designated representative.
- x. The hearing officer may not review the case record or other material either prior to or during the hearing unless such material is made available to the petitioner or their representative.
- xi. The hearing will be conducted in an informal but orderly manner. The hearing officer will explain the hearing procedure to the petitioner. The administrative hearing statement will be read by the Department of Human Services representative. The Department of Human Services shall

then present its case. After completion of the Department of Human Services' case, the petitioner's case will be presented. The parties shall have the opportunity to present witnesses, advance arguments, offer additional evidence, and to confront and cross examine adverse witnesses. If the petitioner is unable to present their evidence in a logical manner, the hearing officer will assist the petitioner. Questioning of all parties will be confined to the issue(s) involved.

- xii. The hearing officer will prepare a comprehensive report of the proceedings. The report will consist of an introduction, findings of fact, conclusions of law, and decision. The report shall constitute the final agency determination. The determination shall be mailed to the Petitioner and the Department of Human Services.
- xiii. Any further review must be pursued in accordance with the Administrative Procedure Act, Arkansas Code § 25-15-101 et seq.

## Section VIII METHODOLOGY FOR REVIEW OF COMPLIANCE WITH PROGRAM REQUIREMENTS

### A. Monitoring

1. A program is subject to inspection at any reasonable time by personnel that are authorized by the Department of Human Services. After initial approval of a training program, the Department of Human Services has the right to do an onsite or virtual visit review to determine the program's implementation of and compliance with the requirements. To ensure ongoing compliance, the Department of Human Services has the right to complete unannounced, onsite, or virtual visits at a minimum of once every two (2) years.
2. Program reviews may be comprehensive or partial. Based on the findings of the most current review, or overall test scores, a program may be reviewed more often and in depth.
3. The inspector will generate a report that will specify strengths and deficiencies of the program. The Department of Human Services will terminate programs that do not meet minimum requirements and that do not provide an acceptable plan for correcting deficiencies within the specified timeframe as established by the department of Human Services.
4. The program will be able to re-apply for in-person or virtual instruction after the one (1) year suspension.
5. If a training program is deficient, a corrective action plan must be submitted to the Department of Human Services within ten (10) business days of receiving the notification. The corrective action plan may be returned to the program for further clarification, if the plan does not accurately describe a plan that corrects the deficient practice. The Department of Human Services will send notification to the program upon approval of the corrective action plan. The corrective action plan must include, at a minimum, the following:
  - (a) Activities to correct deficiencies;
  - (b) Person responsible for correcting the deficiencies;
  - (c) Implementation date; and
  - (d) Signature of the primary instructor.

Failure to respond or inadequate corrective actions may cause suspension of the Department of Human Services' approval of the program.

### B. Items Subject to Monitoring

1. Maintenance of Secure Records - Each training program shall provide for secure maintenance of records. Records to be maintained and protected shall include at a minimum, the following:
  - (a) Names of enrollees;
  - (b) Names of those who successfully complete the program
  - (c) Begin and end dates of each class; Curriculum and any revisions of curriculum, with approval from the Department of Human Services;

- (d) Tests, grades, course documents, skills checklist;
  - (e) Credentials of instructors;
  - (f) Documentation of all state approvals; and
  - (g) Record of complaints (for example, nature of complaint, date of complaint, investigation summary, and outcome).
2. Compliance with the following program related curriculum content:
- (a) Program length;
  - (b) Ratio of classroom to skills training;
  - (c) Qualifications of instructors;
  - (d) Quality of skills training supervision;
  - (e) Access for clinical training in a nursing facility that was not disqualified based on criteria specified in Section V (B);
  - (f) Physical (classroom and lab) facilities; and
  - (g) Virtual classroom capabilities.
3. Quality of care - The quality of care provided by individual nursing assistants monitored during a licensing survey or certification survey.
4. Success rate - The graduates' success rate of both virtual and in-person trainees on the state competency examination will be monitored by the Department of Human Services and shall be utilized as a criterion for revoking program approval.
5. Any other requirements included in this manual.

VIRTUAL INSTRUCTION ONLY APPLIES TO LECTURE PORTION OF TRAINING

All content taught to students remains the same whether the program offers in-person or virtual instruction. If the program chooses to offer virtual instruction, the expectation of delivery of information remains the same as in-person. Virtual instruction must be indicated on the application and a virtual plan must be submitted to the Department for approval. If the program fails to meet the guidelines, it will result in temporary suspension, deficiency, or both. In addition to complying with rules, the following requirements must be met:

A.     Requirements

1.     A program is subject to inspection of virtual instruction at any time by Department of Human Services personnel. A program that provides virtual instruction must have practical capabilities and set forth expectations including, but not limited to, the following:
  - a.     Internet capabilities for the program and the participants;
  - b.     Requirements of logging into the virtual site at least fifteen (15) minutes prior to the beginning of class and staying connected virtually until class ends;
  - c.     A camera that is turned on during instruction; and
  - d.     Individual logins that must be tracked and maintained for auditing purposes by the Department.
2.     Virtual programs are responsible for ensuring that the Department of Human Services has the virtual link to audit compliance with these rules. The link must be functional and active at all times.
3.     All participants must be able to have visible access to observe all curriculum activities (examples include, but are not limited to, hands-on demonstration, notes on board, and all instruction provided by the program).
4.     All videos to be viewed must be included in the curriculum for in-person and virtual training.
5.     All skills labs must be in-person.
6.     The programs must provide training materials prior to class, including but not limited, web access to materials.

A. General Provisions

1. This section sets forth policy for direct reimbursement for allowable nursing assistant training costs incurred by Medicaid certified nursing facilities. Allowable training costs will be separately tracked, documented, and submitted monthly as described herein. All reimbursements shall be made directly to the Medicaid certified nursing facility.
2. Based on Federal regulations, nursing assistants who are employed by (or who have a “letter of intent” to be employed by) a Medicaid certified nursing facility may not be charged for any portion of the program (including any fees for textbooks or other required course material). The Department of Human Services shall be responsible to pay for the training costs one (1) time for individuals who are employed by or have a “letter of intent” to be employed by a Medicaid certified nursing facility as set forth in this Section.
3. The criteria required for reimbursements under the “letter of intent” arrangement must meet the following:
  - (a) The facility must have on file a job application completed and signed by the individual receiving the letter of intent;
  - (b) The facility must complete a criminal record check on the individual in accordance with Arkansas Code § 20-38-101 et seq; and
  - (c) The facility must retain copies of documents to verify compliance with these provisions as specified in Subsection E of this section.
4. Allowable costs for nursing assistant training reimbursement may include the costs for operation of an approved nursing assistant training program, the costs associated with a cooperative training effort with a neighboring approved training program (not claimed by that program), and the costs of having nursing assistants trained in an approved non-facility-based training program (paid by the facility). **Nursing Assistant salaries and fringe benefits, including amounts paid while in training, and in-service or continuing education costs are not directly reimbursable but are included on the facility's annual cost report and reimbursed through the per diem rates.**
5. Reimbursement of nursing facility costs for training of nursing assistants must be allocated between Medicaid, Medicare, and private pay patients. Medicaid may not be charged for that portion of these costs that are properly charged to Medicare or private pay activities. Therefore, the Department of Human Services will pay only the percentage of the total billed or maximum limit (see item D) for nursing assistant training based on the percentage of Medicaid recipients indicated on the billing. Facilities should continue to bill for the total amount of expenses incurred. The recipient information should reflect the midnight census for the last day of the month.

B. Allowable costs

The following costs are allowable for nursing assistant training:

1. Nursing assistant transportation expenses: The dollar amount of

transportation expenses paid directly to or reimbursed for the nursing assistant to attend training or to travel to a nursing assistant competency evaluation site.

2. Books: The dollar amount spent for books purchased specifically for use in the Nursing Assistant training program.
3. Instructional equipment: The dollar amount spent for equipment. Examples include, but are not limited to, SMARTBoards, iPads, Apple TV, Chromebooks, multi-media projectors, and DVDs, purchased specifically for use in the nursing assistant training program.
4. Instructional videos: The dollar amount spent for things such as instructional videos, purchased specifically for use in the nursing assistant training program.
5. Other training materials: The dollar amount spent for other approved training materials purchased specifically for use in the nursing assistant training program.
6. Training space: The dollar amount spent for the rent of classroom space (outside the facility), and things such as lab equipment, specifically for the nursing assistant training program. Construction costs for training facilities will not be authorized.
7. Instructor wages: The dollar amount of wages paid to the Nursing Assistant Instructor for training time, only while the Nursing Assistant Instructor is not included in the Nursing Facility's staffing pattern providing nursing services.

Facilities should not include the time spent proctoring the skills test as a training activity for reimbursement. Information reported to the Department of Human Services on the DMS-755 is strictly for training, **not testing activity**.

8. Instructor fringe benefits: The dollar amount paid for fringe benefits to the nursing assistant instructor is for their training services only. The nursing assistant instructor is not to be included in the nursing facility's staffing pattern for providing nursing services.
9. Nursing assistant consultant training fees: The dollar amount paid to a consultant trainer for Nursing Assistant training.
10. Consultant reimbursable expenses: The dollar amount paid to a consultant trainer for reimbursable expenses such as travel and lodging.
11. Instructor workshop fees: The amount of tuition and registration fees paid for Nursing Assistant training program instructors to attend instructor workshops. Instructor workshops must meet requirements established by the Office of Long-Term Care to qualify for reimbursement and participants must be approved for attendance by the Office of Long-Term Care.



12. Instructor workshop travel expenses: Travel expenses and lodging paid directly or reimbursed for Nursing Assistant training program instructors to attend instructor workshops.
13. Nursing assistant training tuition: The dollar amount spent on tuition for employees (and potential employees given a "letter of intent," dated within twelve (12) months immediately preceding the date of the completion of training) to attend Nursing Assistant training in an approved non- facility training program. The actual amount of tuition paid for a student, up to a **maximum of four hundred eighty dollars (\$480) per student**, will be reimbursed as allowable cost. This amount is based on the provision of the minimum ninety (90) hours training required by the Department of Human Services.

C. Claims submission

1. Claims for reimbursement of expenses incurred for nursing assistant training costs shall be submitted to the Department of Human Services monthly on form DMS-755. Claims for the expense month can be submitted no earlier than the first day of the month or the last day of the month following the expense month. The report forms will be designed to capture the above cost categories by use area in either formal "approved" or combined "cooperative" training. Therefore, documentation of these costs should be accounted for in a manner consistent with these categories.
2. Claims must be submitted to the Department of Human Services within thirty (30) calendar days following the end of the expense month. **Claims not submitted timely or claims that are incomplete will not be accepted for payment and shall be returned to the facility. Corrected claims must be submitted within fifteen (15) calendar days of the date returned.**
3. A claim for reimbursement may not be submitted for any month in which no students completed training. Unclaimed costs in this circumstance may be carried over to the month when students complete training and will still be subject to the four hundred eighty dollars (\$480) maximum cost limit per student (see item D of this section - Maximum Cost Limit).
4. All submitted claims must include a copy of each trainee's Certificate of Completion from the training program and a copy of the Department of Human Services issued criminal records check. Determination Letter. In accordance with Section 203.1 of the Rules for Conducting Criminal Record Checks for Employees of Long-Term Care Facilities, the facility must complete the criminal record check for each trainee prior to conducting the nursing assistant training or prior to sponsoring the trainee through the "letter for intent to employ" provisions as specified in item A (2) and B (13) of this section.
5. **Reimbursements are not allowed and shall be denied to facilities for the following:**
  - (a) Individuals listed on the Long-Term Care Facility Employment Clearance Registry with a disqualification status due to a substantiated

administrative finding of abuse, neglect, misappropriation of resident property, or a disqualifying criminal record in accordance with Arkansas Code § 20-38-101 et seq.

(b) Individuals listed on the Long-Term Care Facility Employment Clearance Registry with an expired certification. These individuals are not required to be retrained and may retest in accordance with Section VII (C) (1) of these rules.

(c) Individuals who, prior to training, did not complete a criminal record check in accordance with Arkansas Code § 20-38-101 et seq.

6. All claim forms (DMS-755) must be submitted with original signatures of the nursing facility Administrator. Copies will not be accepted.

D. Maximum Cost Limit

1. In an effort to establish proper and efficient administration of training costs reimbursements, a reasonable maximum cost limit shall be imposed. Based on analysis of nursing assistant training costs, four hundred eighty dollars (\$480) per student will be the maximum paid to facilities on their claims. This limit shall be imposed based on the number of students who finish the training program. Claims must show actual costs incurred and reimbursements will be made for actual costs but not to exceed the maximum limit of four hundred eighty dollars (\$480) per student who complete the training.

Example: Claim form shows actual costs is \$1250.00 with four (4) students completing the course. As \$1250.00 is less than \$1920.00 (four (4) students x \$480 = \$ 1920 maximum) the actual costs will be reimbursed. If this example had only two (2) students completing, the maximum would be \$960.00 (two (2) students x 480) and the reimbursement would be capped at \$960.00 rather than paying the full \$1250.00 actual expenses.

E. Cost Reporting and Record Retention

Nursing assistant training costs directly reimbursed by the Department of Human Services shall be included in the nursing facility's annual Financial and Statistical Cost Report (FSR) and shall be reported as revenue offsets to nursing assistant training costs. Facilities must retain receipts and documentation of nursing assistant training costs submitted to the Department of Human Services for reimbursement for a period of no less than five (5) years or until all audit findings are final. Any facility claiming reimbursement for costs that were not actually incurred, or not properly documented, will be required to provide restitution to the Department of Human Services and will be subject to fines, prosecution, or both, as authorized by state and federal statutes.

F. Nursing Assistant Training Cost Reimbursement Claim Form

The Nursing Assistant Training Cost Reimbursement Claim Form (DMS-755) is specific to each facility.

To obtain a form DMS-755, email [natpcertification@dhs.arkansas.gov](mailto:natpcertification@dhs.arkansas.gov) or visit: [Department of Human Services – Division of Provider Services & Quality Assurance](#)

1. The following rules for the Long-Term Care Facility Nursing Assistant Training Program are duly adopted and promulgated by the Department of Human Services pursuant to Arkansas Code § 20-10-701 et seq.
2. This initiative is pursuant to the Federal mandates of Public Law 100-203 (the Nursing Home Reform Act, Subtitle C of the Omnibus Budget and Reconciliation Act of 1987 and technical amendments of OBRA 1989 and 1990) concerning the training and competency examination of nursing assistants employed in long term care facilities and the registry of certified nursing assistants.
3. The Federal Omnibus Budget Reconciliation Act of 1987, 1989, 1990, and 1993 (OBRA) and regulations issued by the U.S. Department of Health and Human Services – Centers for Medicare and Medicaid Services (formerly Health Care Financing Administration, or HCFA) established the minimum requirements for nursing assistant training and competency evaluation programs in Section 1819(a) – (f) and 1919(a) – (f) of the Social Security Act.

State of Arkansas

As Engrossed: S2/9/23

94th General Assembly

# A Bill

Regular Session, 2023

SENATE BILL 193

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

By: Representative Eubanks

## For An Act To Be Entitled

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

## Subtitle

TO AMEND THE ARKANSAS OCCUPATIONAL  
LICENSING OF UNIFORMED SERVICE MEMBERS,  
VETERANS, AND SPOUSES ACT OF 2021.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative intent.

It is the intent of the General Assembly to:

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

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

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

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.~~

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12 /s/Hill

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15 **APPROVED: 2/24/23**  
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State of ArkansasAs *Engrossed: S2/6/23 S2/15/23 S2/28/23 S3/1/23 S3/6/23*  
*H3/15/23*

94th General Assembly  
Regular Session, 2023

# A Bill

SENATE BILL 90

By: Senators Hill, Hester  
*By: Representatives McCollum, Underwood*

## For An Act To Be Entitled

AN ACT TO CREATE THE AUTOMATIC OCCUPATIONAL LICENSURE  
FOR OUT-OF-STATE *LICENSURE* ACT; TO AUTHORIZE  
OCCUPATIONAL LICENSING ENTITIES TO PROVIDE FOR  
AUTOMATIC OCCUPATIONAL LICENSURE FOR *NEW RESIDENTS*  
WHO ARE LICENSED IN ANOTHER STATE, TERRITORY, OR  
DISTRICT OF THE UNITED STATES; AND FOR OTHER  
PURPOSES.

## Subtitle

TO CREATE THE AUTOMATIC OCCUPATIONAL  
*LICENSURE FOR OUT-OF-STATE LICENSURE ACT.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 17, is amended to add an additional  
chapter to read as follows:

CHAPTER 7 - AUTOMATIC OCCUPATIONAL LICENSURE FOR OUT-OF-STATE *LICENSURE* ACT

17-7-101. Title.

This chapter shall be known and may be cited as the "*Automatic*  
*Occupational Licensure for Out-of-State Licensure Act*".

17-7-102. Definitions.

As used in this chapter:

(1) "Automatic occupational licensure" means the granting of



1 occupational licensure to an individual who establishes residency in this  
2 state without the individual's having met occupational licensure requirements  
3 provided under this title or by the rules of the relevant occupational  
4 licensing entity;

5 (2) "Occupational licensing entity" means an office, board,  
6 commission, department, council, bureau, or other agency of state government  
7 having authority to license, certify, register, permit, or otherwise  
8 authorize an individual to engage in a particular occupation or profession,  
9 not including occupations or professions within the judicial branch of  
10 government or occupations or professions subject to the superintending  
11 control of the Supreme Court; and

12 (3) "Occupational licensure" means a license, certificate,  
13 registration, permit, or other form of authorization, including without  
14 limitation military occupational specialty, required by law or rule that is  
15 required for an individual to engage in a particular occupation or  
16 profession.

17  
18 17-7-103. Applicability.

19 Unless otherwise stated in this chapter, this chapter applies to an  
20 individual who has occupational licensure in another state, territory, or  
21 district of the United States and has established a residence in this state.  
22

23 17-7-104. Automatic occupational licensure.

24 (a) If the individual does not have a disqualifying criminal offense  
25 under § 17-3-102 or any additional state law relating to the occupational  
26 licensure and does not have a complaint, allegation, or investigation pending  
27 for his or her occupational activity, an occupational licensing entity shall  
28 grant automatic occupational licensure to engage in an occupation or a  
29 profession to an individual who is:

30 (1) The holder in good standing for one (1) year of an  
31 occupational licensure with similar scope of practice issued by another  
32 state, territory, or district of the United States; or

33 (2) An individual who worked:

34 (A) In another state, territory, or district of the United  
35 States that does not use an occupational licensure to regulate an occupation  
36 or profession but is regulated by occupational licensure in this state; and

1 (B) At least three (3) years in the occupation.

2 (b) An individual who is granted automatic occupational licensure  
3 under this subchapter shall meet all other occupational licensure  
4 requirements for a resident of this state and all renewal requirements of the  
5 occupational licensure, including without limitation a criminal background  
6 check and continuing education hours.

7 (c)(1) Notwithstanding subsections (a) and (b) of this section, an  
8 occupational licensing entity may require an applicant to pass an examination  
9 specific to relevant state laws that regulate the occupation or profession.

10 (2) Notwithstanding subsections (a) and (b) of this section, an  
11 occupational licensing entity shall require an applicant to furnish a bond,  
12 financial statement, or proof of insurance coverage if required by state law.

13 (d) An occupational licensing entity may waive the requirements of  
14 subdivision (c)(1) of this section if the occupational licensing entity finds  
15 that:

16 (1) The combination of the applicant's education, training, and  
17 experience is a sufficient substitute for the requirement; and

18 (2) A waiver of the requirement will not harm public health,  
19 safety, or welfare.

20  
21 17-7-105. Responsibilities of occupational licensing entities.

22 An occupational licensing entity shall:

23 (1) Provide automatic occupational licensure to an individual  
24 listed in § 17-7-104;

25 (2) Post prominently on the occupational licensing entity's  
26 website a link entitled "Out-of-State Licensure" that leads directly to  
27 information applicable to an individual licensed under § 17-7-104; and

28 (3) Provide to the Legislative Council an annual report stating  
29 the number of individuals granted automatic occupational licensure under this  
30 chapter.

31  
32 17-7-106. Exemptions.

33 (a) This subchapter does not apply to licensure or certification of:

34 (1) Medical professions under Title 17, Subtitle 3;

35 (2) Legal professionals; or

36 (3) Individuals under reciprocity agreements.



1        (b) This subchapter does not apply to an existing multistate or  
2        interstate compact if the subchapter would result in a nullification of the  
3        multistate or interstate compact.

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5                                /s/Hill

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8                                APPROVED: 4/4/23