

Act 929 of 2015 codified in A.C.A. §17-95-901-917

ARKANSAS GRADUATE REGISTERED PHYSICIAN ACT

I. Definitions.

- A. “Graduate registered physician” means an individual who:
 - 1. Is a resident of Arkansas who has graduated from an accredited allopathic medical school or osteopathic medical school and is not currently enrolled in an accredited graduate medical education training program; or
 - 2. Is a citizen of the United States or a legal resident alien who has graduated from an accredited Arkansas allopathic medical school or Arkansas osteopathic medical school and is not currently enrolled in an accredited graduate medical education training program.
 - 3. The graduate registered physician is a dependent medical practitioner who:
 - 4. Only provides healthcare services under the supervision of a physician; and
 - 5. Works under a physician-drafted protocol approved by the Arkansas State Medical Board, which describes how the graduate registered physician and the physician will work together and practice guidelines required by the supervising physician;
- B. “Medical school ” means a school as defined by the board ;
- C. "Resident of Arkansas" means a natural person who provides evidence deemed sufficient to the Arkansas State Medical Board that the person uses an Arkansas residence address for federal or state tax purposes;
 - 1. “Supervising physician” means a physician licensed under the Arkansas Medical Practices Act, §17-95-201 et seq., § 17-95-301 et seq., and §17-95-401 et seq., who has agreed to practice in consultation with a graduate registered physician and who is board eligible in his or her specialty; and
- D. “Supervision ” means overseeing the activities of and accepting responsibility for the medical services rendered by a graduate registered physician.
 - 1. Supervision of each graduate registered physician by a physician or physicians shall be continuous.

II. Qualifications for licensure.

- A. Except as otherwise provided in this subchapter, an individual shall be licensed by the Arkansas State Medical Board before the individual may practice as a graduate registered physician.
- B. The board may grant a license as a graduate registered physician to an applicant

who:

1. Submits an application on forms approved by the board;
2. Pays the appropriate fees as determined by the board;
3. Has successfully completed Step 1 and Step 2 of the United States Medical Licensing Examination, Comprehensive Osteopathic Medical Licensing Examination, or the equivalent of both steps of an Arkansas State Medical Board-approved medically licensing examination within the two-year period immediately preceding application for licensure as a graduate registered physician, but not more than two (2) years after graduation from a medical school, an allopathic medical college, or an osteopathic medical college;
4. Has not completed an approved postgraduate residency but has successfully completed Step 2 of the United States Medical Licensing Examination or the equivalent of Step 2 from a board-approved medically licensing examination within the two-year period immediately preceding application for licensure as graduate registered physician;
5. Has no licensure, certification, or registration under current discipline, revocation, suspension, or probation for cause resulting from the applicant's medical practice, unless the board considers the conditions and agrees to licensure;
6. Enters into a physician-drafted protocol within six (6) months of initial licensure;
7. Is of good moral character; and
8. Submits to the board any other information that the board deems necessary to evaluate the applicant's qualifications.

III. Renewal.

- A. Upon notification from the Arkansas State Medical Board, an individual who holds a license as a graduate registered physician in this state shall renew the license by:
 1. Submitting the appropriate fee as determined by the board;
 2. Completing the appropriate renewal forms;
 3. Submitting verification of actual practice under a physician-drafted protocol during the immediately preceding licensure period; and
 4. Meeting other requirements set by the board.
- B. The Arkansas State Medical Board shall determine the renewal period.

IV. Scope of authority.

- A. A graduate registered physician
 1. may provide healthcare services with physician supervision.
 2. The supervising physician shall be identified on all prescriptions and orders.
 3. A graduate registered physician may perform those duties and responsibilities, including the prescribing, ordering, and administering of drugs and medical devices, that are delegated by his or her supervising physician.

- B. A graduate registered physician shall be considered the agent of his or her supervising physician in the performance of all practice-related activities, including but not limited to, the ordering of diagnostic, therapeutic, and other medical services.
- C. A graduate registered physician may perform healthcare services in a setting authorized by the supervising physician in accordance with any applicable facility policy.

V. Prescriptive authority.

- A. A physician who is supervising a graduate registered physician may
 1. delegate prescriptive authority to a graduate registered physician to include prescribing, ordering, and administering Schedules III-V controlled substances as described in the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-510, and 21 C.F.R. Part 1300, all legend drugs, and all nonscheduled prescription medications and medical devices.
 2. All prescriptions and orders issued by a graduate registered physician also shall identify his or her supervising physician.
- B. A graduate registered physician's level of prescriptive authority shall not exceed the authority of the supervising physician.
- C. A graduate registered physician who prescribes controlled substances shall register with the Drug Enforcement Administration as part of the Drug Enforcement Administration's Mid-Level Practitioner Registry, C.F.R. Part 1300, 58 FR 31171-31175, and the Controlled Substances Act, 21 30 U.S.C. § 801 et seq.

VI. Supervision.

- A. Supervision of a graduate registered physician shall be continuous and require the physical presence of the supervising physician at the place that the services are rendered.
- B. Each team of physicians and graduate registered physicians has an obligation to ensure that:
 1. The graduate registered physician's scope of practice is identified;
 2. The delegation of a medical task is appropriate to the graduate registered physician's level of competence;
 3. The relationship and access to the supervising physician is defined; and
 4. A process of evaluation of the graduate registered physician's performance is established.
- C. The graduate registered physician and supervising physician may designate back-up physicians who agree to supervise the graduate registered physician during the absence of the supervising physician.
- D. A physician who desires to supervise a graduate registered physician shall:
 1. Be licensed in this state;
 2. Notify the Arkansas State Medical Board of his or her intent to supervise a graduate registered physician;
 3. Submit a statement to the board that he or she will exercise supervision over

the graduate registered physician in accordance with rules adopted by the board;
and

4. Limit supervision to no more than two (2) graduate registered physicians per supervising physician.

VII. Notification of intent to practice.

A. Before initiating practice, a graduate registered physician licensed in this state must submit on forms approved by the Arkansas State Medical Board notification of an intent to practice.

B. The notification shall include:

1. The name, business address, email address, and telephone number of the supervising physician; and

2. The name, business address, and telephone number of the graduate registered physician.

C. A graduate registered physician shall notify the board of any changes or additions in supervising physicians within ten (10) calendar days.

VIII. Exclusions of limitations of employment

This chapter shall not be construed to limit the employment arrangement of a graduate registered physician licensed under this subchapter.

IX. Violation.

Following the exercise of due process, the Arkansas State Medical Board may discipline a graduate registered physician who:

A. Fraudulently or deceptively obtains or attempts to obtain a license;

B. Fraudulently or deceptively uses a license;

C. Violates any provision of this subchapter or any rules adopted by the board pertaining to this chapter;

D. Is convicted of a felony;

E. Is a habitual user of intoxicants or drugs to the extent that he or she is unable to safely perform as a graduate registered physician;

F. Has been adjudicated as mentally incompetent or has a mental condition that renders him or her unable to safely perform as a graduate registered physician; or

G. Has committed an act of moral turpitude.

X. Disciplinary authority.

Upon finding that a graduate registered physician has committed an offense described in § 17-95-910, the Arkansas State Medical Board may:

- A. Refuse to grant a license;
- B. Administer a public or private reprimand;
- C. Revoke, suspend, limit, or otherwise restrict a license;
- D. Require a graduate registered physician to submit to the care, counseling, or treatment of a physician or physicians designated by the board;
- E. Suspend enforcement of its finding and place the graduate registered physician on probation with right to vacate the probationary order for noncompliance; or
- F. Restore or reissue, at its discretion, a license and impose any disciplinary or corrective measure that may have been imposed previously.

XI. Title and practice protection

An individual who is not licensed under this subchapter is guilty of a Class A misdemeanor and is subject to penalties applicable to the unlicensed practice of medicine if he or she:

- A. Holds himself or herself out as a graduate registered physician; or
- B. Uses any combination or abbreviation of the term "graduate registered physician" to indicate or imply that he or she is a graduate registered physician.

XII. Identification requirements.

A graduate registered physician licensed under this subchapter shall keep his or her license available for inspection at his or her primary place of business, and when engaged in professional activities, a graduate registered physician shall wear a name tag identifying himself or herself as a graduate registered physician, and immediately below the licensure of degree, information, in equal size or larger lettering.

XIII. Rule-making authority.

The Arkansas State Medical Board shall promulgate rules that are reasonable and necessary to implement this subchapter.

XIV. "Good Samaritan" provision.

A graduate registered physician shall be subject to the "Good Samaritan" provisions embodied in §17 -95-101.

XV. Patient care orders.

- A. Patient care orders generated by a graduate registered physician shall be construed as having the same medical, health, and legal force and effect as if the orders were generated by his or her supervising physician, provided that the supervising physician's name is identified in the patient care order.

B. The orders shall be complied with and carried out as if the orders had been issued by the graduate registered physician's supervising physician.

XVI. Medical malpractice - Professional and legal liability for actions.

A graduate registered physician shall be covered under the provisions regarding medical malpractice and legal liability as such applies to his or her supervising physician as embodied in §§ 16-114-20 -16-114-203 and §§ 416-114-205 -16-114-209.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas State Medical Board
DIVISION _____
DIVISION DIRECTOR Peggy Pryor Cryer, Executive Secretary
CONTACT PERSON Kevin M. O'Dwyer, Attorney
ADDRESS 211 S. Spring Street, Little Rock, AR 72201
PHONE NO. 501-372-4144 **FAX NO.** 501-372-7480 **E-MAIL** kodwyer@htolaw.com
NAME OF PRESENTER AT COMMITTEE MEETING Kevin M. O'Dwyer
PRESENTER E-MAIL _____

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

- 1. What is the short title of this rule? Regulation 37 Graduate Registered Physicians
- 2. What is the subject of the proposed rule? Creates a level of physician who works under the supervision of a physician
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. Act 929 of the 2015 Arkansas State Legislature required the Medical Board to pass a Regulation creating Graduate Registered Physicians.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. ACA §17-95-901; ACA §17-95-303; Act 929 of 2015

7. What is the purpose of this proposed rule? Why is it necessary? The proposed Rule is necessary by law and gives the Arkansas State Medical Board enforcement authority over licensed physicians to supervise graduate physicians

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.armedicalboard.org

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

If yes, please complete the following:

Date: August 6, 2015

Time: 8:50 a.m.

Offices of the Arkansas State Medical Board, 1401 W. Capitol Ave. Suite 340,

Place: Little Rock AR 72201

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

August 5, 2015

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

September 1, 2015

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas State Medical Board

DIVISION _____

PERSON COMPLETING THIS STATEMENT Kevin M. O'Dwyer, Attorney

TELEPHONE NO. 501-372-4144 **FAX NO.** 501-372-7480 **EMAIL:** kodwyer@htolaw.com

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

SHORT TITLE OF THIS RULE Regulation 37 Graduate Registered Physicians

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

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

(a) How the additional benefits of the more costly rule justify its additional cost;
N/A

(b) The reason for adoption of the more costly rule;
N/A

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

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

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

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

Current Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Next Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Total _____

Total _____

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

Current Fiscal Year

Next Fiscal Year

General Revenue N/A
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

General Revenue N/A
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total _____

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

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

N/A

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

N/A

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.