

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**John Thurston**

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

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



For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas State Board of Nursing

Department \_\_\_\_\_

Contact Leslie Suggs E-mail Leslie.Suggs@Arkansas.gov Phone 501-686-2704

Statutory Authority for Promulgating Rules Ark. Code Ann. §6-11-105, §17-87-103, §25-15-210, et seq.

Rule Title: ASBN Rules, Chapter 8- Medication Assistant-Certified "2"

Intended Effective Date  
(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other July 01, 2020  
(Must be more than 10 days after filing date.)

Legal Notice Published ..... 2/24/2020

Final Date for Public Comment ..... 3/25/2020

Reviewed by Legislative Council ..... 6/17/2020

Adopted by State Agency ..... 7/01/2020

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Leslie Suggs Leslie.Suggs@arkansas.gov

June 29, 2020

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

*Sue A. Tedford MNSc APRN*

Signature

501-686-2703

Sue.Tedford@Arkansas.gov

Phone Number

E-mail Address

Sue A. Tedford, MNSc, APRN, Director

Title

June 29, 2020

Date

# ARKANSAS STATE BOARD OF NURSING RULES

## CHAPTER EIGHT MEDICATION ASSISTANT-CERTIFIED

### SECTION I DEFINITION OF TERMS

**DESIGNATED FACILITY** – a nursing home.

**MEDICATION ASSISTANT-CERTIFIED – (MA-C)** a person who is certified by the Board to administer certain nonprescription and legend drugs in designated facilities.

**SUPERVISION** – the oversight of the medication assistant-certified by a licensed nurse on the premises of a nursing home.

**LEGEND DRUG** - a drug limited by § 503(b) (1) of the federal Food, Drug, and Cosmetic Act to being dispensed by or upon a medical practitioner's prescription.

**INITIAL MEDICATION** – a new medication that the patient has not been receiving and/or changes in dosage, route, or frequency of a medication that a patient is currently receiving.

### SECTION II QUALIFICATIONS

- A. In order to be certified as a medication assistant-certified, an applicant shall submit to the Arkansas State Board of Nursing written evidence, verified by oath, that the applicant:
  - 1. Is currently listed in good standing on the state's certified nurse aide registry;
  - 2. Has maintained registration on the state's certified nurse aide registry continuously for a minimum of one (1) year;
  - 3. Has completed at least one (1) continuous year of full-time experience as a certified nurse aide in this state;
  - 4. Is currently employed at a nursing home;
  - 5. Has a high school diploma or the equivalent;
  - 6. Has successfully completed a literacy and reading comprehension screening process approved by the Board;
  - 7. Has successfully completed a medication assistant-certified training course approved by the Board; and
  - 8. Has successfully passed a Board approved certification examination on subjects the Board determines; or
- B. Has completed a portion of a nursing education program equivalent to the medication assistant person training course and passed the board's medication assistant certification and is otherwise qualified.
- C. Any person holding certification as a medication assistant-certified shall have the right to use the title medication assistant-certified" and the abbreviation "MA-C."

### SECTION III EXAMINATION

#### A. ELIGIBILITY

The applicant shall meet the certification requirements of the Board.

#### B. APPLICATION

- 1. Applications for examination shall be completed and filed with the Board prior to the examination.
- 2. Verification of successful completion of the medication assistant-certified program including date of completion shall be received in the Board office directly from the institution which provided the program.

## ARKANSAS STATE BOARD OF NURSING RULES

### **C. FEE**

1. The examination fee shall accompany the application.
2. The examination fee (first time or retake) is not refundable.

### **D. PASSING SCORE**

The passing score on the certification examination shall be determined by the Board.

### **E. FAILING SCORE AND ELIGIBILITY TO RETAKE THE EXAMINATION**

1. Any applicant whose score falls below the passing score shall fail the examination.
2. The frequency and number of retests by unsuccessful candidates shall be determined by the Board.

### **F. RESULTS**

Examination results shall be available to all applicants and to their respective schools.

## **SECTION IV** **MA-C IDENTIFICATION**

- A. Any person who holds a MA-C certification in this state shall use the legal title or abbreviation as set forth in Arkansas Code Annotated Section 17-87-101, et. seq. No other person shall assume any other name, title or abbreviation or any words, letters, signs, or devices that would cause a reasonable person to believe the user is certified as a MA-C.
- B. Any person certified as a MA-C shall wear a name badge with name and appropriate legal title or abbreviation during times when such person is administering medications.
- C. The name badge shall be prominently displayed and clearly legible such that the person receiving medications may readily identify the type of personnel administering such medications.

## **SECTION V** **SCOPE OF WORK**

- A. A MA-C may perform the delegated function of medication administration and related tasks under the supervision of a licensed nurse. A MA-C shall not administer any medication which requires nursing assessment or judgment prior to administration, evaluation and follow up, even if the medication is given by an approved medication route. A MA-C shall not administer medications to more than forty (40) patients during a shift.
- B. **APPROVED MEDICATION ROUTES**  
The routes in which nonprescription and legend drugs may be administered by a MA-C when delegated by a licensed nurse include:
  1. Orally
  2. Topically
  3. Drops for eye, ear or nose
  4. Vaginally
  5. Rectally
  6. Transdermally
  7. Oral inhaler
- C. **TASKS NOT WITHIN THE SCOPE OF WORK**  
Tasks which shall not be delegated to the MA-C include, but are not limited to:
  1. Receive, have access or administer controlled substances
  2. Administer parenteral, enteral, or injectable medications
  3. Administer any substance by nasogastric or gastrostomy tube
  4. Calculate drug doses
  5. Destroy medications

## ARKANSAS STATE BOARD OF NURSING RULES

6. Receive written or verbal orders
7. Transcribe orders from the medical record
8. Order initial medications (Refer to Section I, Definition of Terms)
9. Evaluate medication error reports
10. Perform treatments
11. Conduct patient assessments or evaluations
12. Engage in patient teaching activities
13. Order or receive medications by a route that the medication assistant – certified can not administer

### **SECTION VI** **SUPERVISION**

A licensed nurse shall not supervise more than two (2) medication assistant-certified persons during a shift.

### **SECTION VII** **NURSING HOMES UTILIZING MA-C**

Nursing homes utilizing MA-C persons shall notify the Board, on forms supplied by the Board. The notification shall be signed by the facility administrator and director of nursing.

### **SECTION VIII** **DUPLICATE CERTIFICATE**

- A. A duplicate certificate shall be issued when the MA-C submits a statement to the Board that the document is lost, stolen, or destroyed, and pays the required fee.
- B. The certificate will be marked “DUPLICATE.”

### **SECTION IX** **CERTIFICATION/VERIFICATION TO ANOTHER JURISDICTION**

Upon payment of a certification/verification fee, a MA-C seeking certification in another jurisdiction may have a certified statement of Arkansas Certification issued to the appropriate entity in that jurisdiction.

### **SECTION X** **NAME OR ADDRESS CHANGE**

- A. A MA-C whose name is legally changed, shall be issued a replacement certificate following submission of a notarized statement, copy of marriage license or court action, and the required fee.
- B. A MA-C shall immediately notify the Board in writing of a change in mailing or residential address.

### **SECTION XI** **RENEWALS**

- A. Each person certified under the provisions of ACA §17-87-701 et. seq. shall renew certification biennially.
  1. Thirty (30) days prior to the expiration date, the Board shall mail a renewal notification to the last known address of each MA-C to whom a certificate was issued or renewed during the current period.
  2. An application shall be completed before the certification renewal is processed.

## ARKANSAS STATE BOARD OF NURSING RULES

3. The certificate holder must attest to being currently listed in good standing on the state's certified nurse aide registry, have completed the required continuing education, and are currently employed.
4. The non refundable fee for renewal shall accompany the application.
5. Pursuant to Act 996 of 2003 and upon written request and submission of appropriate documentation, members of the Armed Forces of the United States who are Arkansas residents and are ordered to active duty to a duty station located outside of this state shall be allowed an extension without penalty or assessment of a late fee for renewing the service member's certification. The extension shall be effective for the period that the service member is serving on active duty at a duty station located outside of this state and for a period not to exceed six months after the service member returns to the state.

### **B. EXPIRED CERTIFICATE**

1. The certificate is expired if not renewed by the expiration date.
2. Failure to receive the renewal notice at the last address of record in the Board office shall not relieve the MA-C of the responsibility for renewing the certificate by the expiration date.
3. Any MA-C whose certificate is expired shall file a renewal application and pay the current renewal fee and the late fee.
4. Any person practicing during the time the certificate has lapsed shall be considered to be providing services illegally and shall be subject to the penalties provided for violation of ACA §17-87-701 et seq.
5. When disciplinary proceedings have been initiated against a MA-C whose certificate has expired, the certificate shall not be reinstated until the proceedings have been completed.
6. A MA-C applying to reinstate an expired certificate to active status shall complete the continuing education requirements prior to reinstatement of the certificate and attest to being currently listed in good standing on the state's certified nurse aide registry.
7. If the expired period exceeds five (5) years, the person must repeat a medication assistant – certified personnel training program approved by the Board and successfully pass a Board-approved certification examination.

## **SECTION XII** **CONTINUING EDUCATION**

Each person holding an active certificate or applying for reactivation of a certificate under the provisions as stated in these rules shall be required to complete certain continuing education requirements prior to certification renewal or reactivation.

### **A. DECLARATION OF COMPLIANCE**

Each MA-C shall declare his/her compliance with the requirements for continuing education at the time of certification renewal or reactivation. The declaration shall be made on the form supplied by the Board.

### **B. REQUIREMENTS**

1. A MA-C who holds an active certificate shall document completion of eight (8) contact hours of continuing education approved by Arkansas State Board of Nursing during each renewal period.
2. Expired certifications have no requirements for continuing education. Certification reactivation within two (2) years or less shall require documented completion of the following:
  - a. Ten (10) contact hours of continuing education related to medication administration within the past two (2) years approved by the Arkansas State Board of Nursing, and
  - b. Provide other evidence as requested by the Board.
3. Certification reactivation greater than two (2) years, but less than five (5) years shall require documented completion of the following:
  - a. Ten (10) contact hours of continuing education related to medication administration within the past two (2) years approved by the Arkansas State Board of Nursing, or a medication related academic course, and
  - b. Provide other evidence as requested by the Board.
4. Continuing education hours beyond the required contact hours shall not be carried over to the next renewal period.

## ARKANSAS STATE BOARD OF NURSING RULES

### **C. RESPONSIBILITIES OF THE INDIVIDUAL CERTIFIED**

1. It shall be the responsibility of each MA-C to select and participate in those continuing education activities that will meet the criteria.
2. It shall be the MA-C's responsibility to maintain records of continuing education as well as documented proof such as original certificates of attendance, contact hour certificates, academic transcripts or grade slips, and to submit copies of this evidence when requested by the Board.
3. Records shall be maintained by the MA-C for a minimum of two (2) consecutive renewal periods or four (4) years.

### **D. RECOGNITION OF PROVIDERS**

1. The Board shall approve all continuing education programs for the medication assistant-certified.
2. The Board shall work with the professional organizations, approved schools, and other providers of continuing educational programs to ensure that continuing education activities are available to MA-C's.

### **E. ACTIVITIES ACCEPTABLE FOR CONTINUING EDUCATION**

1. The educational activity shall be at least one (1) contact hour in length.
2. The content shall be medication related, relevant to the MA-C scope of work, and provide for educational growth.
3. If participation is in an academic course or other program in which grades are given, a grade equivalent of "C" or better shall be required, or "pass" on a pass/fail grading system.

### **F. ACTIVITIES WHICH ARE NOT ACCEPTABLE AS CONTINUING EDUCATION**

1. In-service programs. Activities intended to assist the MA-C to acquire, maintain, and/or increase the competence in fulfilling the assigned responsibilities specific to the expectations of the employer.
2. Orientation programs. A program by which new staff are introduced to the philosophy, goals, policies, procedures, role expectations, physical facilities, and special services in a specific work setting. Orientation is provided at the time of employment and at other times when changes in roles and responsibilities occur in a specific work setting.
3. Courses designed for lay people.

### **G. INDIVIDUAL REVIEW OF A CONTINUING EDUCATION ACTIVITY PROVIDED BY A NON-RECOGNIZED AGENCY/ORGANIZATION**

1. A MA-C may request an individual review by:
  - a. Submitting an "Application for Individual Review".
  - b. Paying a fee.
2. Approval of a non-recognized continuing educational activity shall be limited to the specific event under consideration.

### **H. AUDITS**

1. The Board may perform random audits of MA-C's for compliance with the continuing education requirement.
2. If audited, the MA-C shall prove completion of the required continuing education during the twenty-four (24) months immediately preceding the renewal date, presenting photocopies of original certificates of completion to the Board.
3. MA-C shall provide evidence of continuing education requirements within thirty (30) calendar days from the mailing date of the audit notification letter sent from the Board to the last known address of the certified.
4. Certificate holders may be subject to disciplinary action by the Board if noncompliant with the audit.

### **I. FAILURE TO COMPLY**

1. Any MA-C who fails to complete continuing education or who falsely certifies completion of continuing education shall be subject to disciplinary action, non-renewal of the certificate, or both, pursuant to ACA §17-87-706 and ACA §17-87-707 (a)(1)(a) and (a)(5).
2. If the Board determines that a MA-C has failed to comply with continuing education requirements, the MA-C will:
  - a. Be allowed to meet continuing education requirements within ninety (90) days of notification of non-compliance.

## ARKANSAS STATE BOARD OF NURSING RULES

- b. Be assessed a late fee for each contact hour that requirements are not met after the ninety (90) day grace period and be issued a Letter of Reprimand. Failure to pay the fee may result in further disciplinary action.

### **SECTION XIII** **ENDORSEMENT**

- A. The Board may issue certification as a MA-C by endorsement to an applicant who has been licensed or certified as a MA-C under the laws of another state or territory, regardless of title if:
  1. In the opinion of the Board, the applicant meets the qualifications of MA-C in this state; and
  2. The Board recommends certification.
- B. **APPLICATION**
  1. Applications must be completed, certified, signed by the applicant, and filed with the Board.
  2. Endorsement verifications will be accepted from the state of original certification only.
- C. **FEE**
  1. The endorsement fee must accompany the application.
  2. The fees are not refundable.

### **SECTION XIV** **STANDARDS FOR TRAINING PROGRAMS**

- A. **NEW PROGRAM APPROVAL**
  1. MA-C training programs shall be Board approved prior to implementation of the program.
  2. The parent institution shall be a post secondary educational institution, hospital or consortium of such institutions which currently offers a nursing program, approved by the Board.
  3. Approval
    - a. The institution shall submit a proposal that is signed by the appropriate administrative officers, and includes:
      - i. Evidence of adequate and appropriate faculty/resources to provide for the program and the requirements listed in this chapter.
      - ii. A plan and timeline for meeting the program requirements.
    - b. The Board shall conduct an initial survey
    - c. The Board may grant, defer, or deny initial approval of the MA-C training program.
    - d. After being granted approval, the institution may advertise and enroll students.
- B. **ESTABLISHED PROGRAM APPROVAL**
  1. Continued Approval:
    - a. A survey will be conducted every five (5) years to review the program for continued compliance with the Standards. The survey report and documentation shall be submitted to the Board and reviewed.
    - b. The Board may grant or defer continued approval or place the program on conditional approval.
  2. Conditional Approval:
    - a. If areas of non-compliance with standards are not corrected within the timeframe established by the Board, the Board shall award conditional approval.
    - b. The conditional approval status shall be in effect for a maximum of one (1) year to correct noncompliance deviations from the Standards, unless otherwise determined by the Board.
  3. The Board may grant continued conditional approval, full approval, or withdraw the MA-C training program's approval.
  4. Satellite and Distance Learning sites shall be approved by the Board prior to implementation and shall meet the same standards as the parent program.

## ARKANSAS STATE BOARD OF NURSING RULES

### C. PROGRAM REQUIREMENTS

1. Administration and Organization:  
The parent institution shall be approved by the appropriate state body.
2. Financial Resources:  
There shall be adequate financial support to provide stability, development and effective operation of the program.
3. Facilities:
  - a. Each program and satellite campus shall have a clinical skills laboratory equipped with necessary educational resources.
  - b. Classrooms and laboratories shall be:
    - i. Available at the scheduled time.
    - ii. Adequate in size for number of students.
    - iii. Climate controlled, ventilated, lighted, equipped with seating, furnishings, and equipment conducive to learning and program goals.
  - c. Adequate storage space shall be available.
  - d. Facilities shall be in compliance with applicable local, state, and federal rules related to safety and the Americans with Disabilities Act.
  - e. Offices:
    - i. There shall be adequate office space for instructors.
    - ii. There shall be secure space for records, files, equipment, and supplies.
    - iii. There shall be office equipment and supplies to meet the needs of faculty and clerical staff.
  - f. Clinical Facilities:
    - i. Nursing homes shall provide adequate clinical learning experiences to meet course objectives.
    - ii. Students shall receive orientation at each clinical site.
4. Personnel:
  - a. The program shall have at least one instructor.
  - b. The instructor shall hold a current unencumbered registered nurse license to practice in Arkansas with at least two (2) years clinical experience and/or education experience in a nursing home.
  - c. The program may have clinical instructors who shall be licensed to practice nursing in Arkansas and have at least one (1) year recent experience in a nursing home.
  - d. An instructor or preceptor shall be onsite and available at all times during the student's clinical experience.
  - e. There shall be secretarial and other support staff sufficient to meet the needs of the program.
5. Students:  
There shall be written policies for admission, readmission, progression, and completion for students which includes documentation of the student's qualifications which comply with ACA §17-87-704.
6. Training Program:
  - a. The training program shall include curriculum and learning experiences essential for the expected entry level and scope of work of the MA-C.
  - b. The training program shall have at least one hundred (100) hours to include forty-five (45) hours of didactic study, fifteen (15) hours of skills lab practice, and forty (40) hours of supervised progressive clinical.
  - c. The didactic content shall include, but not be limited to:
    - i. Role and scope of work of the MA-C;
    - ii. The legal and ethical issues of medication administration;
    - iii. Principles of medication properties, uses, and action;
    - iv. Principles of medication administration including safety, infection control, communication, and documentation skills;
    - v. Appropriate reporting of changes in clients' condition.
  - d. The skills lab shall include activities which focus on elderly clients in a nursing home.
  - e. Consideration shall be given to safety, patient acuity, and the clinical area in determining the necessary faculty to student ratio for clinical experiences.
  - e. The faculty to student ratio shall be no greater than 1:6.
  - f. There shall be a supervised progressive clinical experience with the first twenty-four (24) hours under the direct supervision of the clinical instructor. A preceptor may supervise the remaining clinical hours.



## ARKANSAS STATE BOARD OF NURSING RULES

7. Preceptors:
  - a. Preceptors shall be licensed to practice nursing in Arkansas and have at least one (1) year recent experience in a nursing home.
  - b. The ratio of preceptor to student shall not exceed 1:1.
  - c. There shall be written policies for the use of preceptors, that include:
    - i. Communications between the program and preceptor concerning students.
    - ii. Duties, roles, and responsibilities of the program, preceptor, and student.
    - iii. An evaluation process.
  - d. All preceptors shall be listed on the annual report.
8. Program Evaluation:
  - a. Appropriate records shall be maintained to assist in overall evaluation of the program.
  - b. Students shall evaluate the courses, instructors, preceptors, and clinical experience.
9. Records:
  - a. Current program records shall be safely stored in a secure area.
  - b. The final record of all students enrolled in the program shall be maintained according to the policies of the parent institution.
  - c. The final record shall:
    - i. Reflect courses taken and include information as indicated by the Board;
    - ii. Be an official documentation of program completion;
    - iii. Be printed on security paper or an official electronic document.
  - d. Permanent student records shall be safely stored to prevent loss by destruction and unauthorized use.

HISTORY: Amended July 1, 2020

### **D. REPORTS, CERTIFICATION EXAMINATION PERFORMANCE, AND CLOSURE REPORTS**

1. Reports:
  - a. An annual report shall be submitted in a format and date determined by the Board.
  - b. The Board shall be notified in writing of changes affecting the program, including but not limited to:
    - i. Curriculum
    - ii. School name
    - iii. Instructor
    - iv. Ownership or merger of parent institution
  - c. Curriculum and program changes shall be approved by the Board prior to implementation.
2. Certification Examination Performance:
  - a. The program shall maintain a minimum pass rate of 75% for first-time certification examination candidates.
  - b. Any program with an annual pass rate below 75% shall be required to submit a plan and a progress report which includes evaluation and implementation of changes to the program to achieve the minimum pass rate.
3. Program Closure:
  - a. Voluntary:
    - i. The parent institution shall submit a letter of intent and plan for closure at least six (6) months prior to the closure.
    - ii. The Board shall approve the closure plan prior to implementation.
    - iii. All classes and clinical experiences shall be provided until current students complete the program.
    - iv. Records of a closed program shall be maintained by the parent institution. The institution shall notify the Board of arrangements for the storage of permanent student and graduate records.
  - b. Mandatory:
    - i. Upon Board determination that a program has failed to comply with educational standards and approval has been withdrawn, the parent institution shall receive written notification for closure of the program. The notification shall include a requirement for a plan for completion of currently enrolled students or transfer of students to another acceptable program.
    - ii. Records of a closed program shall be maintained by the parent institution. The institution shall notify the Board of arrangements for the storage of permanent student and graduate records.
  - c. Reapplication of Training Programs:
    - i. A closed program may submit reapplication for a MA-C Training Program after two (2) years.
    - ii. Reapplication shall follow same procedure as initial program applicant.

# ARKANSAS STATE BOARD OF NURSING RULES

## **SECTION XV** **DISCIPLINE**

### **A. GROUNDS FOR DISCIPLINE**

1. The Board shall have sole authority to deny, suspend, revoke, or limit any MA-C certification issued by the Board or applied for in accordance with the provisions of this chapter, or to otherwise discipline a MA-C upon proof that the person:
  - a. Has been found guilty of or pleads guilty or nolo contendere to:
    - i. Fraud or deceit in procuring or attempting to procure a MA-C certificate;
    - ii. Providing services as a MA-C without a valid certificate; or
    - iii. Committing a crime of moral turpitude.
  - b. Is unfit or incompetent by reason of negligence, habits, or other causes;
  - c. Is habitually intemperate or is addicted to the use of habit-forming drugs;
  - d. Is mentally incompetent;
  - e. Is guilty of unprofessional conduct;
  - f. Has had a certificate or registration revoked, suspended;
  - g. Has been placed on probation or under disciplinary order in any jurisdiction;
  - h. Has voluntarily surrendered a certification or registration and has not been reinstated in any jurisdiction; or
  - i. Has willfully or repeatedly violated any of the provisions of this chapter.
2. The Board shall refuse to issue or shall revoke the certification of any person who would be disqualified from employment under the provisions of ACA §20-33-205.

### **B. INVESTIGATIVE DETERMINATION, NOTICE OF FINDING**

The Arkansas State Board of Nursing shall have jurisdiction to investigate all cases of suspected violation of ACA §17-87-701 et. seq.

1. Upon completion of an investigation, the Arkansas State Board of Nursing shall determine that an allegation against a certificant is either:
  - a. Unfounded, a finding that shall be entered if the allegation is not supported by substantial evidence;
  - b. Founded, a finding that shall be entered if the allegation is supported by substantial evidence.
2. After making an investigative determination, the Arkansas State Board of Nursing shall provide notice of the following in writing to the certificant at the last known address of record:
  - a. The investigative determination;
  - b. The disciplinary action taken against the certificant;
  - c. Statement that the certificant with the founded report has the right to an administrative hearing upon a timely written request;
  - d. A statement that the written request for an administrative hearing shall be made to the Arkansas State Board of Nursing within thirty (30) days of receipt of the notice of determination.
  - e. The fact that the certificant has the right to be represented by an attorney at the certificant's own expense;
  - f. A statement that the certificant's failure to request an administrative hearing in writing within thirty (30) days from the date of receipt of the notice will result in submission of the investigative report, including the investigative determination, to all interested parties;
  - g. The consequences of a finding by substantial evidence through the administrative hearing process that violation of ACA §17-87-701 et seq has occurred.

### **C. FINAL DETERMINATION OF FINDINGS**

If the Arkansas State Board of Nursing's investigative determination of founded is upheld during the administrative hearing process or if the offender does not make a timely appeal for or waives the right to an administrative hearing, the Board shall report the final investigative determination in writing to all interested parties.

### **D. SUBPOENAS AND SUBPOENAS DUCES TECUM**

1. The Arkansas State Board of Nursing shall have the power to issue subpoenas and subpoenas duces tecum in connection with its investigations and hearings;

## ARKANSAS STATE BOARD OF NURSING RULES

2. A Subpoena duces tecum may require any book, writing, document, or other paper or thing which is germane to an investigation or hearing conducted by the Board to be transmitted to the Board;
3. Service of subpoena shall be as provided by law for the service of subpoenas in civil cases in the circuit courts of this state, and the fees and mileage of officers serving the subpoenas and of witnesses appearing in answer to the subpoenas shall be the same as provided by law for proceedings in civil cases in the circuit courts of this state;
4. The Board shall issue a subpoena or subpoena duces tecum upon the request of any party to a hearing before the Board;
5. The fees and mileage of the officers serving the subpoena and of the witness shall be paid by the party at whose request a witness is subpoenaed;
6. In the event a person shall have been served with a subpoena or subpoena duces tecum as provided in this section and fails to comply therewith, the Board may apply to the circuit court of the county in which the Board is conducting its investigation or hearing for an order causing the arrest of the person and directing that the person be brought before the court;
7. The court shall have the power to punish the disobedient person for contempt as provided by law in the trial of civil cases in the circuit courts of this state.

### **E. CIVIL PENALTIES**

The Board may, after providing notice and a hearing, levy civil penalties in an amount not to exceed one thousand dollars (\$1,000.00) for each violation against those individuals or entities found to be in violation of this Chapter or Rules promulgated there under.

1. Each day of violation shall be a separate offense.
2. These penalties shall be in addition to other penalties which may be imposed by the Board pursuant to this Chapter.
3. Unless the penalty assessed under this subsection is paid within fifteen (15) calendar days following the date for an appeal from the order, the Board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of penalty not paid.

## **SECTION XVI** **ADVISORY COMMITTEE**

- A. The purpose of this committee shall include functioning in an advisory capacity to assist the Board with oversight and implementation of the provisions regarding medication assistant -certified.

### **B. COMPOSITION**

The Advisory Committee shall be composed of six (6) members appointed by the Board and approved by the Governor. Two (2) members shall be certified MA-C. One (1) member shall be a licensed nursing home administrator who has worked in that capacity for at least five (5) years of the last ten (10) years. One (1) member shall be a registered nurse who has been in a practice using certified nurse aides for at least five (5) years of the last ten (10) years. One (1) member shall be a lay person representing the interest of consumers of health care services. One (1) member shall be a registered nurse educator from an institution that offers a MA-C program.

### **C. TERMS OF OFFICE**

Members shall serve three (3) year terms and may be reappointed. The Board may remove any advisory committee member after notice and hearing for incapacity, incompetence, neglect of duty, or malfeasance in office.

### **D. COMPENSATION**

Advisory committee members shall serve without compensation, but may be reimbursed to the extent special monies are appropriated therefore for actual and necessary expenses incurred in the performance of their official Board duties.

*Effective August 1, 2007*