

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

Chapter I Article III. Entrance Examination**Section 3 –**

Upon successful completion of the entrance examination an applicant must submit an application for initial licensure and fifty (\$50) dollar fee.

The Board shall waive the initial licensure fee if the applicant:

1. Is 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;
2. Was approved for unemployment within the last twelve (12) months; or
3. Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

Section 4 –

The Board shall grant a license to an applicant who fulfills the Arkansas requirements for licensure and is a person who holds a Federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a “work permit.”

Chapter I-Article IV. Licensure by Endorsement, Military Personnel**A. Licensure by Endorsement****Section 1 --**

Any person from another state desiring to engage in the practice of optometry in this state may be issued a licensure by endorsement at the sole discretion of the State Board of Optometry upon satisfactory proof that he or she:

1. Is qualified under this chapter;
2. Has been issued a certificate or license to practice optometry by a state, territory, the District of Columbia, or Canada having standards of proficiency at least equal to the standards of Arkansas;
3. Has engaged in the lawful practice of optometry for a period of three years of the past four years in the other state, territory, the District of Columbia, or Canada and has complied with the requirements of the Arkansas licensure law at the time of application; and
4. Has passed an Arkansas jurisprudence examination as approved by the Board.

Section 2 --

The applicant shall pay a fee to the State Board of Optometry of \$400.00 (equal to the fee of a new applicant) to cover the administrative costs of the application process.

Section 3 --

An application for licensure by endorsement shall be accompanied by:

1. The fee described in Section 2;

2. Certification from all states or territories in which the applicant has practiced;
3. A certificate of good standing from each authority which issued the license, setting forth the applicant's history with the authority, professional ability, continuing education compliance, and other information or data as the State Board of Optometry may deem necessary or expedient;
4. A copy of the therapeutic license held by the applicant and current photo;
5. A copy of the cardiopulmonary resuscitation certification held by the applicant;
6. Transcripts from all colleges or universities attended by the applicant; and an accredited school or college of optometry;
7. Proof of completion of all parts of the National Board of Examiners in Optometry examination required at the time of graduation for initial licensure sent directly to the State Board of Optometry;
8. Information on past medical malpractice claims and any disciplinary actions;
9. Application to the Identification Bureau of the Department for Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation with the \$38.50 fee for processing; and
10. Appear in person before the State Board of Optometry for an interview.

Section 4 --

Upon furnishing satisfactory proof of fitness, the State Board of Optometry in its discretion may issue a license to practice optometry to the applicant without further cost except as otherwise provided in the Rules and Regulations for the renewal of licenses.

B. Licensure for Uniformed Service Members

1. Definitions:

- a. As used in this section, "uniformed service veteran" means a former member of the United States Uniformed Services discharged under circumstances other than dishonorable.

2. Licensure:

- a. Pursuant to Ark. Code Ann. §17-4-101 *et seq*, the Arkansas State Board of Optometry shall allow the following individuals to secure employment with a temporary automatic license, certificate, or permit while completing the application process for full licensure or certification or permitting if the individual is the holder in good standing of a license, certificate, or permit with a similar scope of practice issued by another state:

- (1) A uniformed service member stationed in the State of Arkansas;
- (2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or
- (3) The spouse of:
 - (a) A person under a (1) or (2) above;

(b) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or

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

b. The Arkansas State Board of Optometry shall expedite the process and procedures for full licensure, certification, or permitting for the following individuals:

(1) A uniformed service member stationed in the State of Arkansas;

(2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

(3) The spouse of:

(a) A person under a (1) or (2) above;

(b) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or

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

c. When considering an application for full licensure, certification, or permitting for a uniformed service member stationed in the State of Arkansas or a uniformed service veteran who resides in or establishes residency in the State of Arkansas, the Arkansas State Board of Optometry:

(1) Shall consider whether or not the applicant's military training and experience in the area of licensure, certification, or permitting is substantially similar to experience or education required for licensure, certification, or permitting; and

(2) Shall accept the applicant's military training and experience in the area of licensure, certification, or permitting in lieu of experience or education required for licensure, certification, or permitting if the state board or commission determines the military training and experience is a satisfactory substitute for the experience or education required for licensure, certification, or permitting.

d. A license required to enable the holder to lawfully engage in a profession, trade, or employment in this state held by a uniformed service member deployed outside the State of Arkansas or his or her spouse shall not expire until one hundred eighty (180) days following the uniformed service member's or spouse's return from deployment.

e.(1) The Arkansas State Board of Optometry shall allow a full or partial exemption from continuing education required as part of licensure, certification, or permitting for a profession, trade, or employment in this state for a deployed uniform service member or spouse until one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.

(2) If the Arkansas State Board of Optometry allows a full or partial exemption from continuing education required under subdivision (e)(1) of this section, the Board may require evidence of completion of continuing education before issuing the individual a subsequent license, certificate, or permit or authorizing the renewal of a license, certificate, or permit.

Chapter I Article VIII. Continuing Education

Section 1 –

One clock hour of continuing education requirements of the required 12 clock hours per year must be in the subject matter of Arkansas Jurisprudence, to include the study of the Arkansas Statutes and Regulations of the Board governing the practice of optometry. Said jurisprudence course must be pre-approved by the Board in order to meet the one hour requirement of continuing education. Any licensee completing the jurisprudence course online must provide the Board with the thirty-five (\$35) dollar course fee.

Optometrists serving in the U.S. Armed Forces or Public Health Service assigned to duties outside the boundaries of the United States will be classified as “hardship” and excluded from the continued education requirements. The Board shall waive the annual renewal fee for all registered optometrists if the registered optometrist:

- a. holds a license to practice optometry in the State of Arkansas; and
- b. a uniformed service member

Chapter IX Article I. Pre-Licensure Criminal Background Check

Waiver Request

A. If an individual has been convicted of an offense listed in A.C.A. § 17-3-102(a) or (e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:

Chapter I Article III. Entrance Examination**Section 3 –**

Upon successful completion of the entrance examination an applicant must submit an application for initial licensure and fifty (\$50) dollar fee.

The Board shall waive the initial licensure fee if the applicant:

1. Is 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;
2. Was approved for unemployment within the last twelve (12) months; or
3. Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

Section 4 –

The Board shall grant a license to an applicant who fulfills the Arkansas requirements for licensure and is a person who holds a Federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document, known popularly as a “work permit.”

Chapter I-Article IV. ~~Reciprocity~~, Licensure by Endorsement, Military Personnel**A. Reciprocity****Section 1—**

~~An application for licensure by reciprocity pursuant to Subchapter 3 of Section 17-90-302 of Act 397 of 1991, shall be filed with the Secretary of the Board and shall set forth the name, address, date of birth, and the place or places where the applicant has engaged in the practice of optometry for the three (3) years immediately preceding the application. This application shall contain the names of at least three persons not related to the applicant with whom the applicant has been associated in the last five years. Such application shall also state whether or not the applicant has ever been convicted of a crime, or has ever had his license to practice optometry in other states revoked or suspended.~~

Section 2—

~~Such application shall also set forth the educational and professional qualifications of the applicant.~~

Section 3—

~~The application shall contain a statement by the applicant that he is willing to abide by the laws of this State and the rules and regulations of this Board, and such application shall be subscribed by the applicant and sworn to by him before an officer qualified to administer oaths by the laws of this State.~~

~~Section 4 --~~

~~The application shall be accompanied with a fee of \$400.00. It shall be understood by the applicant that the application fee is to cover the cost of investigation and examination felt necessary by the Board.~~

B. A. Licensure by Endorsement**Section 1 --**

Any person from another state desiring to engage in the practice of optometry in this state may be issued a licensure by endorsement at the sole discretion of the State Board of Optometry upon satisfactory proof that he or she:

1. Is qualified under this chapter;
2. Has been issued a certificate or license to practice optometry by a state, territory, the District of Columbia, or Canada having standards of proficiency at least equal to the standards of Arkansas;
3. Has engaged in the lawful practice of optometry for a period of three years of the past four years in the other state, territory, the District of Columbia, or Canada and has complied with the requirements of the Arkansas licensure law at the time of application; and
4. Has passed an Arkansas jurisprudence examination as approved by the Board.

Section 2 --

The applicant shall pay a fee to the State Board of Optometry of \$400.00 (equal to the fee of a new applicant) to cover the administrative costs of the application process.

Section 3 --

An application for licensure by endorsement shall be accompanied by:

1. The fee described in Section 2;
2. Certification from all states or territories in which the applicant has practiced;
3. A certificate of good standing from each authority which issued the license, setting forth the applicant's ~~moral reputation and character~~, history with the authority, professional ability, continuing education compliance, and other information or data as the State Board of Optometry may deem necessary or expedient;
4. A copy of the therapeutic license held by the applicant and current photo;
5. A copy of the cardiopulmonary resuscitation certification held by the applicant;
6. Transcripts from all colleges or universities attended by the applicant; and an accredited school or college of optometry;
7. Proof of completion of all parts of the National Board of Examiners in Optometry examination required at the time of graduation for initial licensure sent directly to the State Board of Optometry;
8. Information on past medical malpractice claims and any disciplinary actions;
9. Application to the Identification Bureau of the Department for Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation with the \$38.50 fee for processing; and
10. Appear in person before the State Board of Optometry for an interview.

Section 4 --

Upon furnishing satisfactory proof of fitness, the State Board of Optometry in its discretion may issue a license to practice optometry to the applicant without further cost except as otherwise provided in the Rules and Regulations for the renewal of licenses.

CB. Licensure for ~~Active Military Uniformed Service~~ Members**1. Definitions:**

- a. As used in this section, “~~returning military veteran uniformed service veteran~~” means a former member of the United States ~~Armed Forces Uniformed Services~~ who was discharged ~~from active duty~~ under circumstances other than dishonorable.

2. Licensure:

- a. Pursuant to ~~Act 248 of 2017 Ark. Code Ann. §17-4-101 et seq.~~, the Arkansas State Board of Optometry shall allow the following individuals to secure employment with a temporary automatic license, certificate, or permit while completing the application process for full licensure or certification or permitting if the individual is the holder in good standing of a ~~substantially equivalent~~ license, certificate, or permit with a similar scope of practice issued by another state:

- (1) ~~An active-duty military~~ A uniformed service member stationed in the State of Arkansas;
- (2) ~~A returning military veteran applying within one (1) year of his or her discharge from active duty~~ A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or
- (3) The spouse of: ~~a person under subdivisions (b)(1) and (2) of this section.~~
 - (a) A person under a (1) or (2) above;
 - (b) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member’s spouse from accompanying the uniformed service member and the spouse relocates to this state; or
 - (c) A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

- b. The Arkansas State Board of Optometry shall expedite the process and procedures for full licensure, certification, or permitting for the following individuals:

- (1) ~~An active-duty military~~ A uniformed service member stationed in the State of Arkansas;
- (2) ~~A returning military veteran applying within one (1) year of his or her discharge from active duty~~ A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

(3) The spouse of: ~~a person under subdivisions (c)(1) and (2) of this section.~~

~~(a) A person under a (1) or (2) above;~~

~~(b) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or~~

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

c. When considering an application for full licensure, certification, or permitting for ~~an active-duty military~~ a uniformed service member stationed in the State of Arkansas or ~~a returning military veteran applying within one (1) year of his or her discharge from active duty~~ a uniformed service veteran who resides in or establishes residency in the State of Arkansas, the Arkansas State Board of Optometry:

(1) Shall consider whether or not the applicant's military training and experience in the area of licensure, certification, or permitting is substantially similar to experience or education required for licensure, certification, or permitting; and

(2) Shall accept the applicant's military training and experience in the area of licensure, certification, or permitting in lieu of experience or education required for licensure, certification, or permitting if the state board or commission determines the military training and experience is a satisfactory substitute for the experience or education required for licensure, certification, or permitting.

d. A license required to enable the holder to lawfully engage in a profession, trade, or employment in this state held by ~~an active-duty military~~ a uniformed service member deployed outside the State of Arkansas or his or her spouse shall not expire until one hundred eighty (180) days following the ~~active-duty military~~ uniformed service member's or spouse's return from ~~active~~ deployment.

e.(1) The Arkansas State Board of Optometry shall allow a full or partial exemption from continuing education required as part of licensure, certification, or permitting for a profession, trade, or employment in this state for a deployed uniform service member or spouse until one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.~~the following individuals:~~

~~(A) An active duty military service member deployed outside of the State of Arkansas;~~

~~(B) A returning military veteran within one (1) year of his or her discharge from active duty; or~~

~~(C) The spouse of a person under subdivisions (f)(1) and (2) of this section.~~

(2) If the Arkansas State Board of Optometry allows a full or partial exemption from continuing education required under subdivision ~~(f)~~(1) of this section, the Board may require evidence of completion of continuing education before issuing the individual a subsequent license, certificate, or permit or authorizing the renewal of a license, certificate, or permit.

Chapter I Article VIII. Continuing Education**Section 1 –**

One clock hour of continuing education requirements of the required 12 clock hours per year must be in the subject matter of Arkansas Jurisprudence, to include the study of the Arkansas Statutes and Regulations of the Board governing the practice of optometry. Said jurisprudence course must be pre-approved by the Board in order to meet the one hour requirement of continuing education. Any licensee completing the jurisprudence course online must provide the Board with the thirty-five (\$35) dollar course fee.

Optometrists serving in the U.S. Armed Forces or Public Health Service assigned to duties outside the boundaries of the United States will be classified as “hardship” and excluded from the continued education requirements. The Board shall waive the annual renewal fee for all registered optometrists if the registered optometrist:

a. holds a license to practice optometry in the State of Arkansas; and

b. ~~is an active duty~~ a uniformed service member of the military

Chapter IX Article I. Pre-Licensure Criminal Background CheckWaiver Request

A. If an individual has been convicted of an offense listed in A.C.A. § 17-23-102(a) or (e), ~~except those permanently disqualifying offenses found in subsection (e)~~, the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:

Notice of Rulemaking

The Arkansas Department of Health, Division of Health Related Boards & Commissions/Arkansas Board of Optometry hereby issue the following proposed amendments to its Rules pursuant to its authority under Ark. Code Ann. § 17-90-204.

The Board is updating its existing rules to update the offenses that may receive a waiver in the criminal background process mandated by Ark. Code Ann. § 17-3-101 *et seq.*; to update existing rules regarding licensure for military personnel per Ark. Code Ann. § 17-4-101 *et seq.*; to provide for a fee waiver mandated by Ark. Code Ann. §17-5-104; to provide for licensure of individuals with a “work permit” mandated by Ark. Code Ann. §17-1-109; to include the fee for background checks and the Board’s jurisprudence continuing education course per Act 1101 of 2021 and to remove the phrase “moral reputation and character” per Act 990 of 2019.

This proposed policy is available for review at the Board of Optometry’s office, 5800 W 10th St, Suite 100, Little Rock, AR 7220s. You may also access it on the Board’s website at <https://www.aroptometry.org/>. All public comments must be submitted in writing to the Board of Optometry no later than April 19, 2022.

If you need this material in a different format, such as large print, contact Tanya Ford at 501-534-6139 or Tanya.Ford@arkansas.gov.