

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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

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

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

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

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

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH  
THE ARKANSAS LEGISLATIVE COUNCIL**

**DEPARTMENT** Arkansas Department of Health  
**BOARD/COMMISSION** Division of Health Related Boards: State Medical Board  
**BOARD/COMMISSION DIRECTOR** Matt Gilmore, ADH Boards and Commissions Coordinator  
**CONTACT PERSON** Amy Embry, Director  
**ADDRESS** 1401 W. Capitol, Suite 340, Little Rock, AR 72201  
**PHONE NO.** (501) 296-1802 **EMAIL** amy.embry@armedicalboard.org  
**NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING**  
Amy Embry and Matt Gilmore  
**PRESENTER EMAIL(S)** amy.embry@armedicalboard.org matt.gilmore@arkansas.gov

**INSTRUCTIONS**

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, [miller-ricer@blr.arkansas.gov](mailto:miller-ricer@blr.arkansas.gov), for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, [garritym@blr.arkansas.gov](mailto:garritym@blr.arkansas.gov), for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

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1. What is the official title of this rule?  
Rule No. 10: Respiratory Care Practitioners
2. What is the subject of the proposed rule? To amend the requirements of continuing medical education stating that of the 12 hours required, one hour shall be on the subject of ethics/professional boundaries.
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☒

*If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).*

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☐

4. Is this rule being filed for permanent promulgation? Yes ☒ No ☐

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☒

If yes, what was the effective date of the emergency rule? \_\_\_\_\_

On what date does the emergency rule expire? \_\_\_\_\_

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes ☐ No ☒

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes ☐ No ☒

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes ☐ No ☒

If yes, please list the rules being repealed.

If no, please explain.

N/A - This is not a new rule but an amendment only.

8. Is this a new rule? Yes ☐ No ☒

Does this repeal an existing rule? Yes ☐ No ☒

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes ☒ No ☐

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

17-99-201(c)(1)

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?  
Yes ☐ No ☒

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

This amendment will change requirements of continuing medical education stating that of the 12 hours required, one hour shall be on the subject of ethics/professional boundaries. This recommendation was made by the Respiratory Committee and has the support of its professional association (please see attached).

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

[www.armedicalboard.org](http://www.armedicalboard.org)

13. Will a public hearing be held on this proposed rule? Yes ☐ No ☒

If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

*Please be sure to advise Bureau Staff if this information changes for any reason.*

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. [12/04/2023](#)

15. What is the proposed effective date for this rule? [01/31/2024](#)

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

[Possibly licensees, and professional organizations and associations.](#)

19. Is the rule expected to be controversial? Yes ☐ No ☒

If yes, please explain.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY.**

**DEPARTMENT** Arkansas Department of Health

**BOARD/COMMISSION** Division of Health Related Boards: State Medical Board

**PERSON COMPLETING THIS STATEMENT** Amy Embry

**TELEPHONE NO.** (501) 296-1802 **EMAIL** amy.embry@armedicalboard.org

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** Rule No. 10: Respiratory Care Practitioners

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 \$ 0.00 \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \$ 0.00 \_\_\_\_\_

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

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \$ 0.00 \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \$ 0.00 \_\_\_\_\_

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**

\$ 0.00 \_\_\_\_\_

**Next Fiscal Year**

\$ 0.00 \_\_\_\_\_

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**

\$ 0.00 \_\_\_\_\_

**Next Fiscal Year**

\$ 0.00 \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.



## **RULE No. 10: RULES GOVERNING THE LICENSING AND PRACTICE OF RESPIRATORY CARE PRACTITIONERS**

1. APPLICATION FOR LICENSURE. Any person who plans to practice as a licensed respiratory care practitioner (LRCP) in the state of Arkansas shall, in addition to demonstrating eligibility in accordance with the requirement of Arkansas Code Ann. 17-99-302 or 17-99-303, apply for licensure to the Board on forms and in such manner as the Board shall prescribe.
- 1.1 FORMS. Application forms may be secured from the Arkansas State Medical Board.
2. EXAMINATION. All respiratory care practitioners shall be required to pass an examination for a license to practice the profession in Arkansas, except as otherwise stated in Arkansas Code Ann. 17-99-301. It is not the intent of the Board to examine for licensure as a respiratory care practitioner those individuals engaged solely in the practice of pulmonary function testing.
3. LICENSING. All respiratory care practitioners in the state of Arkansas must be licensed to practice, except as otherwise stated in Arkansas Code Ann. 17-99-301.
- 3.1 BY EXAMINATION. The Board shall register as a respiratory care practitioner and shall issue a license to any person who satisfactorily passes the examination provided for in the Act and who otherwise meets the requirements for qualification contained herein and pays a fee as determined by the Board.
- 3.2. BY WAIVER OF EXAMINATION. The Board shall waive the examination and grant a license as a licensed respiratory care practitioner (LRCP) to any person who meets the qualifications outlined in Arkansas Code Ann. 17-99-302.
- 3.3 TEMPORARY LICENSE. The secretary of the Board may issue a temporary permit without examination to practice respiratory care to persons who are not licensed in other states but otherwise meet the qualifications for licensure set out in the Act. The temporary permit is valid for six (6) months and is not renewable.
- 3.4 RECIPROCITY. A licensed respiratory care practitioner who has been issued a license in another state or territory whose qualifications for licensure meet or exceed those prescribed in the Act shall be issued a license to practice respiratory care in the state of Arkansas upon payment of the prescribed fees if the state or territory from which the applicant comes accords a similar privilege of licensure to persons licensed in this state by the Board.
- 3.5 RENEWAL. A license or re-registration fee of \$40.00 shall be paid to the Board by each respiratory care practitioner who holds a license to practice respiratory care in the state of Arkansas. Registration fee shall be paid by the last day of the birth month. The license of any person failing to re-register and pay said fee by the last day of the birth month shall expire automatically.
- 3.6 REINSTATEMENT. Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty of \$10.00 for each year or part of a year they have been delinquent. They will also be required to submit twelve (12) continuing educational units (CEU's) for each year delinquent. Any person who shall fail to re-register and pay the annual fee for five (5) consecutive years shall be required to be re-examined by the Board, as per Rule 2, before their license may be reinstated.
- 3.7 REFUSAL, REVOCATION, AND/OR SUSPENSION OF LICENSE. The Board after due notice and hearing may deny or refuse to renew a license, or may suspend or revoke a license, of any licensee or applicant for licensure:
  - (a) Who is habitually drunk or who is addicted to the use of narcotic drugs;
  - (b) Who has been convicted of a violation of state or federal narcotic laws;
  - (c) Who is, in the judgment of the Board, guilty of unprofessional conduct;
  - (d) Who has been convicted of any crime listed in A.C.A. §17-3-102;
  - (e) Who is guilty, in the judgment of the Board, of gross negligence in their practice as a respiratory care practitioner;
  - (f) Who has obtained or attempted to obtain registration by fraud or material misrepresentation;
  - (g) Who has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane;
  - (h) Who has treated or undertaken to treat ailments to human beings other than by respiratory care and as authorized by this Act, or who has undertaken to practice independent of the prescription and direction of a licensed physician.
4. FEES. The fees are as follows:

Initial application for licensure by examination or by reciprocity: \$75.00.

An applicant whose application is rejected shall be refunded all but \$25.00 of the paid application fee.

Application for temporary permit: \$35.00

Annual renewal: \$40.00

Reinstatement: All delinquent fees plus a penalty of \$10.00 per year for all years delinquent.

5. CONTINUING EDUCATION. All respiratory care practitioners licensed by the Board in the state of Arkansas must complete twelve (12) continuing education hourly units as a condition for renewal of a license. One of the 12 hourly units shall be on the subject of ethics/professional boundaries. Each licensee will sign their renewal application verifying that they have completed said twelve hours and will maintain, for a period of three years, proof of the courses taken, should it be requested by the Board for audit purposes.

5.1 TYPES OF ACCEPTABLE CONTINUING EDUCATION.

The following categories of experience will be accepted for meeting the continuing education requirements:

- a. Courses completed in the techniques and application of respiratory therapy care provided through an approved respiratory care educational program.
- b. Participation in programs which provide for the awarding of continuing respiratory care education, continuing education units or equivalent credits which may be granted through national or state organizations such as the American Association of Respiratory Care, Arkansas Society for Respiratory Care, American Thoracic Society or the American College of Chest Physicians, or their successor organizations.
- c. Instruction in programs as described in the preceding sections (a, b) provided such instruction is not related to one's employment responsibilities.
- d. Passage of the National Board for Respiratory Care credentialing or re-credentialing examinations for the entry level practitioner or the written or clinical simulation for advanced practitioners.
- e. Any activity completed within the 12 months prior to the issuance of the initial license.

5.2 DOCUMENTATION. All licensed practitioners shall submit documentation of completion of continuing education experiences on such forms as the Board shall supply, upon request by the Board. Acceptable documentation is as follows:

- a. Official transcripts documenting completion of respiratory care course work.
- b. A signed certificate by a program leader or instructor of the practitioner's attendance in a program.
- c. A letter from a sponsoring institution on the agency's letterhead giving the name of the program, location, dates, subjects taught, and hours of instruction.
- d. A copy of the official transcript indicating successful passage of the National Board of Respiratory Care credentialing or re-credentialing examinations for the entry level practitioner or clinical simulation for advanced practitioners.

5.3 CONTINUING EDUCATION CREDIT. Continuing education credits will be awarded based on the following criteria:

- a. For completed applicable respiratory care course work, five (5) continuing education units will be awarded for each semester credit or hour successfully completed.
- b. For programs attended, continuing education units will be awarded as stated in the program literature or one (1) continuing education unit will be awarded for each hour of instruction.
- c. For instruction, three (3) continuing education units will be awarded for each clock hour of respiratory care instruction, signed by program director.
- d. For passage of the National Board for Respiratory Care credentialing or re-credentialing examinations for the entry level practitioner or the written or clinical simulation or advanced practitioner (RRT), Adult Critical Care Specialty Examination (ACCS), Certified Respiratory Therapy Sleep Disorders Specialist Examination (CRT-SDS), Registered Respiratory Therapy Sleep Disorders Specialist Examination (RRT-SDS), Neonatal/Pediatric Specialty Examination (NPS), Certified Pulmonary Function Technologist (CPFT), and Registered Pulmonary Function Technologist (RPFT), six (6) continuing education units will be awarded.
- e. Advanced Cardiovascular Life Support (ACLS), Neonatal Advanced Life Support (NALS), Pediatric Advanced Life Support (PALS), Neonatal Resuscitation Program (NRP), and Sugar, Temperature, Airway, Blood work, Lab work, and Emotional support for the family (STABLE) are awarded six (6) CEU's on initial and/or re-certifications.
- f. Any activity approved by the Arkansas Respiratory Care Examining Committee.

5.4 FAILURE TO COMPLETE THE CONTINUING EDUCATION REQUIREMENT. A practitioner who has failed to complete the requirements for continuing education as specified in Section 5:

- a. Only active licensees may be granted up to a three (3) month extension at which time all requirements must be met.
  - b. A practitioner may not receive another extension at the end of the new reporting period.
- 5.5 EXCESSIVE CONTINUING EDUCATION CREDITS.  
Credits reported to the Board which exceed the required number as specified in Section 5 shall not be credited to the new reporting period.
- 5.6 HARDSHIP. The Board has considered hardship situation in formulating these sections.
- 5.7 The provisions of this Section (5 - 5.7) shall become effective January 1, 1989.
6. DEFINITIONS.
- 6.1 ACT DEFINED. The term Act as used in these rules shall mean Act 1094, the Arkansas Respiratory Care Act of 1995.
- 6.2 NATIONAL CREDENTIALS DEFINED. The National Board for Respiratory Care issues the credentials of C.R.T. (Certified Respiratory Therapist) and R.R.T (Registered Respiratory Therapist). Persons holding these credentials meet the qualifications for licensure in the state of Arkansas until otherwise determined by the Board.
- 6.3 STATE CREDENTIALS DEFINED. Persons who have met the qualifications and obtained a license in the state of Arkansas shall be designated by the credentials of L.R.C.P. (Licensed Respiratory Care Practitioner).
7. OTHER DEFINITIONS.
- 7.1 STUDENT. A Person currently enrolled in an accredited, approved training program who is actively engaged in the clinical practice of respiratory care at the level of their clinical education.
- 7.2 LIMITED. The clinical practice of respiratory care shall be restricted to the level of current and progressive clinical training as provided by an accredited, approved training program in respiratory care. The definition applies to respiratory care students.
- 7.3 SUPERVISION. Supervision by a licensed respiratory care practitioner who is responsible for the functioning of the practitioner.
- 7.4 APPROVED TRAINING PROGRAM. Respiratory care programs approved by the Arkansas State Board of Higher Education or like organizations in other states.
8. Members of the Arkansas Respiratory Care Examining Committee will be paid the sum of \$35.00 per day per diem when they are meeting as a Committee.

History: History: Adopted May 25, 1988; Amended September 8, 1995, December 4, 1997; Revised March 5, 1999; \*Revised February 4, 2000; Amended December 6, 2001; Amended October 6, 2005; Amended October 4, 2012; Amended January 1, 2013; Amended June 5, 2014; Amended August 6, 2015, Effective December 14, 2015; Amended March 22, 2022; Effective July 11, 2022.

## **NOTICE OF PUBLIC HEARING**

In compliance with ACA 25-15-204, the Arkansas State Medical Board gives notice of amendments to the Medical Practices Act and to the following rules: Rule 10 – Practice of Respiratory Care Practitioners; Rule 18 – Fee Schedule for Centralized Verification Service; Rule 24 – Physician Assistants; Rule 28 – Education Licenses; Rule 40 – Surgical Technologists; Rule 42 – Licensure for Uniformed Service Member, Veterans, and Spouses. A copy of the amended rules as referred to herein may be found at [armedicalboard.org](http://armedicalboard.org).

All individuals desiring to provide comments may do so. All written comments may be sent to Arkansas State Medical Board, 1401 W. Capitol, Suite 340, Little Rock, Arkansas, 72201 or to [PublicHearingComments@armedicalboard.org](mailto:PublicHearingComments@armedicalboard.org). The public comment period will end on Monday, December 4, 2023 at 4:30 p.m.