

- h. Causing suffering, permitting, or allowing physical or emotional injury to the patient or failing to report the same in accordance with the incident reporting procedure in effect at the employing institution or agency.
  - i. Leaving a nursing assignment without notifying appropriate personnel.
  - j. Failing to report to the Board within a reasonable time of the occurrence, any violation or attempted violation of the Arkansas *Nurse Practice Act* or duly promulgated rules or orders.
  - k. Delegating nursing care functions and/or responsibilities in violation of the Arkansas *Nurse Practice Act* and the Arkansas State Board of Nursing *Rules*, Chapter 5.
  - l. Failing to supervise persons to whom nursing functions are delegated or assigned.
  - m. Practicing nursing when unfit to perform procedures and make decisions in accordance with the license held because of physical, psychological, or mental impairment.
  - n. Failing to conform to the Standard Precautions for preventing contact with blood or other potentially infectious materials.
  - o. Providing inaccurate or misleading information regarding employment history to an employer or the Arkansas State Board of Nursing.
  - p. Failing or refusing a drug screen as requested by employer or Board.
  - q. Engaging in acts of dishonesty which relate to the practice of nursing.
  - r. Failure to display appropriate insignia to identify the nurse during times when the nurse is providing health care to the public.
  - s. Failure to repay loans to the Nursing Student Loan Fund as contracted with the Board of Nursing.
  - t. Failure to comply with the terms and conditions of the Letter of Reprimand, Board Order, Consent Agreement, or the Alternative to Discipline contract.
  - u. Failure to establish and maintain a professional boundary.
  - v. Performing a healthcare related act that is prohibited by statute or regulation or failing to perform a healthcare related act that is required by statute or regulation.
  - w. Any other conduct that, in the opinion of the Board, is likely to deceive, defraud, injure, or harm a patient or the public by an act, practice, or omission that fails to conform to the accepted standards of the nursing profession.
7. The term "has had a license, privilege to practice, certificate, or registration revoked, suspended or placed on probation or under disciplinary order" refers to actions in any jurisdiction.
  8. The term "has voluntarily surrendered a license, privilege to practice, certification, or registration and has not been reinstated" refers to actions in any jurisdiction.
  9. The term "willfully" shall include but not be limited to:
    - a. Continuing action after notice by the Arkansas State Board of Nursing.
    - b. Disregarding the expiration date of the license.
    - c. Providing false, incorrect, or incomplete information to the employer regarding the status of the license.
    - d. Performing acts beyond the authorized scope of the level of nursing for which the individual is licensed and practicing without required professional supervision.
    - e. Failing to follow the *Nurse Practice Act* of the State of Arkansas and its *Rules*.

HISTORY: Amended: Jan. 1, 2018; Dec. 29, 2018; Feb. 22, 2022

# ARKANSAS DEPARTMENT OF HEALTH

## Arkansas State Board of Nursing

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# Grounds for DISCIPLINE

## ARKANSAS NURSE PRACTICE ACT

### 17-87-309. Disciplinary actions

(a) The Arkansas State Board of Nursing shall have sole authority to deny, suspend, revoke, or limit any license or privilege to practice nursing or certificate of prescriptive authority issued by the Board or applied for in accordance with the provisions of this chapter or to otherwise discipline a licensee upon proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing or is engaged in the practice of nursing without a valid license;
- (2) Is guilty of a crime or gross immorality;
- (3) Is unfit or incompetent by reason of negligence, habits, or other causes;
- (4) Is habitually intemperate or is addicted to the use of habit-forming drugs;
- (5) Is mentally incompetent;
- (6) Is guilty of unprofessional conduct;
- (7) Has had a license, privilege to practice, certificate, or registration revoked or suspended or has been placed on probation or under disciplinary order in any jurisdiction;
- (8) Has voluntarily surrendered a license, privilege to practice, certification, or registration and has not been reinstated in any jurisdiction; or
- (9) Has willfully or repeatedly violated any of the provisions of this chapter.

(b) The board shall refuse to issue or shall revoke the license of any person who is found guilty of or pleads guilty or nolo contendere to any offense listed in 17-3-102, unless the person requests and the board grants a waiver pursuant to § 17-3-102.

(c) Proceedings under this section shall be as provided in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

*History* - Acts 1971, No. 432 § 13; A.S.A. 1947, § 72-757; Acts 1957, No. 147 § 1; Acts 1995, No. 409, § 14; 1981 (1<sup>st</sup> Ex. Sess.) No. 19 § 9; 1997, No. 179 § 14; 1999, No. 1208, § 3; 2001, No. 212, § 1; 2007, No. 207, § 1, Act 990 of 2019.

### 17-87-104. Penalty

(a) (1) It shall be a misdemeanor for any person to:

- (A) Sell or fraudulently obtain or furnish any nursing diploma, license, renewal, or record, or aid or abet therein;
- (B) Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;
- (C) Practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, practical nursing, or psychiatric technician nursing as defined by this chapter unless licensed by the Arkansas State Board of Nursing to do so;
- (D) Use in connection with his or her name any of the following titles, names, or initials if the user is not properly licensed under this chapter:
  - (i) Nurse;
  - (ii) Registered nurse or R.N.;
  - (iii) Advanced practice nurse, advanced practice registered nurse, A.P.N., or A.P.R.N., or any of the following:
    - (a) Advanced registered nurse practitioner, certified nurse practitioner, A.R.N.P., A.N.P., or C.N.P.;

(b) Nurse anesthetist, certified nurse anesthetist, certified registered nurse anesthetist, or C.R.N.A.;

(c) Nurse midwife, certified nurse midwife, licensed nurse midwife, C.N.M., or L.N.M.; or

(d) Clinical nurse specialist or C.N.S.;

(iv) Registered nurse practitioner, N.P., or R.N.P.;

(v) Licensed practical nurse, practical nurse, or L.P.N.;

(vi) Licensed psychiatric technician nurse, psychiatric technician nurse, L.P.T.N., or P.T.N.; or

(vii) Any other name, title, or initials that would cause a reasonable person to believe the user is licensed under this chapter;

- (E) Practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, practical nursing, or psychiatric technician nursing during the time his or her license shall be suspended;
- (F) Conduct a nursing education program for the preparation of professional nurses, advanced practice registered nurses, nurse practitioners, practical nurses, or psychiatric technician nurses unless the program has been approved by the Board;
- (G) Prescribe any drug or medicine as authorized by this chapter unless certified by the board as having prescriptive authority, except that a certified registered nurse anesthetist shall not be required to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicines necessary for the care; or
- (H) Otherwise violate any provisions of this chapter.

(2) Such misdemeanor shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500). Each subsequent offense shall be punishable by fine or by imprisonment of not more than thirty (30) days, or by both fine and imprisonment.

- (b) (1) After providing notice and a hearing, the Board may levy civil penalties in an amount not to exceed one thousand dollars (\$1,000) for each violation against those individuals or entities found to be in violation of this chapter or regulations promulgated thereunder.
- (2) Each day of violation shall be a separate offense.
- (3) These penalties shall be in addition to other penalties which may be imposed by the Board pursuant to this chapter.
- (4) 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 Pulaski County Circuit Court to obtain a judgment for the amount of penalty not paid.
- History* - Acts 1971, No. 432, § 18; 1980 (1<sup>st</sup> Ex. Sess.), No. 14, § 4; A.S.A. 1947, § 72-762; Acts 1995, No. 409, § 4; 2013, No. 604, §§ 5, 6; 2019, No. 315, § 1540

## ASBN RULES – CHAPTER 7 – RULES OF PROCEDURE SECTION IV - DISCIPLINARY PROCEEDINGS

### A. DEFINITIONS

1. The term "fraud and deceit" shall include but not be limited to:
  - a. False representation of facts on an application for licensure by examination or licensure by endorsement without examination or on application for renewal of license.
  - b. False representation by having another person in his/her place for the licensing examination or any part thereof.

- c. Forged or altered documents or credentials as required for the application for original license, application for renewal of license, or application for certificate of prescriptive authority.
  - d. Disclosing the contents of the licensing examination or soliciting, accepting, or compiling information regarding the examination before, during or after its administration.
  - e. Aiding, abetting, assisting, or hiring an individual to violate or circumvent any law or duly promulgated rules intended to guide the conduct of a nurse or other health care provider.
  - f. Prescribing any drug, medicine, or therapeutic device unless certified by the Board as having prescriptive authority.
  - g. Engaging in the practice of nursing without a valid license.
  - h. Payment for any license, renewal license, fine, civil penalty, service, or item purchased by any method or devise that results in nonpayment to the Arkansas State Board of Nursing or its agents.
2. The term "gross immorality" shall include but not be limited to acts and conduct inconsistent with the rules and principles of morality which relate to the practice of nursing and the responsibilities of the licensee.
  3. The term "negligence" means the failure to do some act of nursing which a licensee should do, guided by those ordinary considerations which regulate the practice of nursing; or the doing of something which a reasonable and prudent licensee would not do under the same or similar facts and circumstances in the practice of nursing. The term "gross negligence" is an exercise of such minimal care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the patient or the public and shall be considered a substantial departure from the accepted standard of care. The term "other causes" shall include, but not be limited to, the inability to practice nursing because of physical and/or psychological impairment.
  4. The term "habitually intemperate or addicted" shall include but not be limited to the use of hallucinogenics, stimulants, depressants, or intoxicants which could result in behavior that interferes with the practice of nursing.
  5. The term "mental incompetence" shall include those situations where a court has judged a licensee as incompetent.
  6. The term "unprofessional conduct" includes, but is not limited to, the conduct listed below:
    - a. Failing to assess and evaluate a patient's status or failing to institute nursing intervention which might be required to stabilize a patient's condition or prevent complications.
    - b. Failing to accurately or intelligibly report or document a patient's symptoms, responses, progress, medications, and/or treatments.
    - c. Failing to make entries, destroying entries, and/or making false entries in records pertaining to the giving of narcotics, drugs, or nursing care.
    - d. Unlawfully appropriating medications, supplies, equipment, or personal items of the patient or employer.
    - e. Failing to administer medications and/or treatments in a responsible manner.
    - f. Performing or attempting to perform nursing techniques and/or procedures in which the nurse is untrained by experience or education and practicing without the required professional supervision.
    - g. Violating the confidentiality of information or knowledge concerning the patient except where required by law.