

NURSE PRACTICE ACT OF THE STATE OF ARKANSAS



TITLE 17
PROFESSIONS, OCCUPATIONS, AND BUSINESSES
SUBTITLE 3. MEDICAL PROFESSIONS

CHAPTER 87

NURSES

ARKANSAS STATE BOARD OF NURSING
1123 S. University Avenue, Suite 800, Little Rock, Arkansas 72204
www.arsbn.org

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SUBCHAPTER 1 – GENERAL PROVISIONS

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17-87-101. License required – Purpose.

(a) In order to safeguard life and health, a person practicing or offering to practice nursing for compensation shall be required to submit evidence that he or she is qualified to so practice and shall be licensed as provided in this chapter:

- (1) Professional nursing;
- (2) Advanced practice registered nursing;
- (3) Registered practitioner nursing;
- (4) Practical nursing; or
- (5) Psychiatric technician nursing.

(b) It is unlawful for any person not licensed by the Arkansas State Board of Nursing:

- (1) To practice or offer to practice professional nursing, advanced practice registered nursing, registered practitioner nursing, practical nursing, or psychiatric technician nursing; or
- (2) To use any sign, card, or device to indicate that the person is a professional registered nurse, an advanced practice registered nurse, a registered nurse practitioner, a licensed practical nurse, or a licensed psychiatric technician nurse.

History

Acts 1971, No. 432, § 1; 1979, No. 613, § 1; 1980 (1st Ex. Sess.), No. 14, § 1; A.S.A. 1947, § 72-745; Acts 1995, No. 409, § 1; 2013, No. 604, § 1.

17-87-102. Definitions.

As used in this chapter:

- (1) "Board" means the Arkansas State Board of Nursing;
- (2) "Collaborative practice agreement" means a written plan that identifies a physician who agrees to collaborate with an advanced practice registered nurse in the joint management of the health care of the advanced practice registered nurse's patients and that outlines procedures for consultation with or referral to the collaborating physician or other healthcare professional as indicated by a patient's healthcare needs;
- (3) "Consulting physician" means a physician licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., with obstetrical privileges in a hospital, who has agreed to practice in consultation with a certified nurse midwife;
- (4) (A) "Practice of advanced practice registered nursing" means the delivery of healthcare services for compensation by a professional nurse who has gained additional knowledge and skills through successful completion of an organized program of nursing education that certifies nurses for advanced practice roles as certified nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, and clinical

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nurse specialists.

(B) "Practice of advanced practice registered nursing" includes the practice of nursing as a:

- (i) Certified nurse practitioner;
- (ii) Certified registered nurse anesthetist;
- (iii) Certified nurse midwife; and
- (iv) Clinical nurse specialist;

(5) "Practice of certified nurse midwifery" means the performance for compensation of advanced nursing practices by a certified nurse midwife that are relevant to the management of women's health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, family planning, and gynecological needs of women within a healthcare system that provides for consultation, collaborative management, or referral as indicated by the health status of the client;

(6) "Practice of certified nurse practitioner nursing" means the performance for compensation of advanced nursing practices by a registered nurse who, as demonstrated by national certification, has advanced knowledge and practice skills in the delivery of nursing services;

(7) (A) "Practice of certified registered nurse anesthesia" means the performance for compensation of advanced nursing practices by a certified registered nurse anesthetist that are relevant to the administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, licensed dentist, or other person lawfully entitled to order anesthesia.

(B) A certified registered nurse anesthetist may order nurses, within his or her scope of practice, to administer drugs preoperatively and postoperatively in connection with an anesthetic or other operative or invasive procedure, or both, that will be or has been provided;

(8) "Practice of clinical nurse specialist nursing" means the performance for compensation of advanced nursing practices by a registered nurse who, through study and supervised practice at the graduate level and as evidenced by national certification, has advanced knowledge and practice skills in a specialized area of nursing practice;

(9) "Practice of licensed practical nursing" means the performance for compensation of nursing practices by a licensed practical nurse that are relevant to the care of the ill, injured, or infirm, or the delegation of certain nursing practices to other personnel as set forth in regulations established by the board, under the direction of a registered nurse, an advanced practice registered nurse, a licensed physician, or a licensed dentist that do not require the substantial specialized skill, judgment, and knowledge required in professional nursing;

(10) "Practice of professional nursing" means the performance by a registered nurse or an advanced practice registered nurse for compensation of any acts involving:

- (A) The observation, care, and counsel of the ill, injured, or infirm;
- (B) The maintenance of health or prevention of illness of others;
- (C) The supervision and teaching of other personnel;
- (D) The delegation of certain nursing practices to other personnel as set forth in regulations established by the board; or
- (E) The administration of medications and treatments as prescribed by practitioners authorized to prescribe and treat in accordance with state law when such acts require substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical, and social sciences;

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(11) "Practice of psychiatric technician nursing" means the performance for compensation of nursing practices by a licensed psychiatric technician nurse that are relevant to the care of the physically and mentally impaired, injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in regulations established by the board, and the carrying out of medical orders under the direction of a professional registered nurse, an advanced practice registered nurse, a licensed physician, or a licensed dentist, when such activities do not require the substantial specialized skill, judgment, and knowledge required in professional nursing; and

(12) (A) "Practice of registered nurse practitioner nursing" means the performance for compensation of nursing practices by a registered nurse practitioner that are relevant to the delivery of healthcare services in collaboration with and under the direction of a licensed physician or under the direction of protocols developed with a licensed physician.

(B) A registered nurse practitioner is authorized to engage in nursing practices as recognized by the nursing profession and as authorized by the board.

History

Acts 1971, No. 432, § 2; 1979, No. 404, §§ 1, 7; 1979, No. 613, § 2; A.S.A. 1947, § 72-746; Acts 1995, No. 409, § 2; 1997, No. 1065, § 1; 1999, No. 1208, § 1; 2013, No. 604, § 2; 2015, No. 1156, § 14.

17-87-103. Exceptions.

This chapter does not prohibit:

- (1) The furnishing of nursing assistance in an emergency;
- (2) The practice of nursing that is incidental to their program of study by students enrolled in nursing education programs approved by the Arkansas State Board of Nursing;
- (3) The practice of any legally qualified nurse of another state who is employed by the United States Government or any bureau, division, or agency while in the discharge of his or her official duties in installations where jurisdiction has been ceded by the State of Arkansas;
- (4) The practice of any legally qualified and licensed nurse of another state, territory, or foreign country whose responsibilities include transporting patients into, out of, or through this state while actively engaged in patient transport that does not exceed forty-eight (48) hours in this state;
- (5) Nursing or care of the sick when done in connection with the practice of the religious tenets of any church by its adherents;
- (6) The care of the sick when done in accordance with the practice of religious principles or tenets of any well-recognized church or denomination that relies upon prayer or spiritual means of healing;
- (7) The administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, dentist, or other person lawfully entitled to order anesthesia by a graduate nurse anesthetist awaiting certification results while holding a temporary permit;
- (8) The administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, dentist, or other person lawfully entitled to order anesthesia by a registered nurse who is enrolled as a bona fide student pursuing a course in a nurse anesthesia school that is approved by a nationally recognized accrediting body and whose graduates are acceptable for certification by a nationally recognized certifying body, provided the giving or administering of the anesthetics is confined to the educational requirements of the course and under the direct supervision of a qualified instructor;

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(9) Hospital-employed professional paramedics from administering medication for diagnostic procedures under the direction of a physician;

(10) The prescription and administration of drugs, medicines, or therapeutic devices in the presence of and under the supervision of an advanced practice registered nurse holding a certificate of prescriptive authority, a licensed physician, or licensed dentist by a registered nurse who is enrolled as a student in an advanced pharmacology course, provided the prescription or administration of drugs or medicines, or both, is confined to the educational requirements of the course and under the direct supervision of a qualified instructor;

(11) (A) The administration of glucagon or insulin, or both, to a student who is diagnosed with diabetes by trained volunteer school personnel designated as care providers in a health plan that covers diabetes management and is based on the orders of a treating physician, who have been trained by a licensed registered nurse employed by a school district or other health care professional to administer glucagon or insulin, or both, to a child with diabetes in an emergency situation.

(B)(i) A licensed registered nurse employed by a school district or other health care professional shall annually train volunteer school personnel designated as care providers in a health plan of a student submitted under subdivision (11)(A) of this section to administer glucagon or insulin, or both, to a student with diabetes.

(ii) If a parent or guardian of a student with diabetes chooses to have care provided by a care provider, the parent or guardian of a student with diabetes shall sign an authorization to allow the administration of glucagon or insulin, or both, to the student by volunteer school personnel designated as care providers who shall be incorporated into the health plan of a student submitted under subdivision (11)(A) of this section.

(iii) The school district shall maintain a copy of the health plan provided under subdivision (11)(A) of this section, a list of volunteer school personnel who are designated as care providers and trained to administer glucagon or insulin, or both, and a copy of the parent's or guardian's signed authorization.

(C)(i) A school district shall strive to achieve the following staffing ratios for students with diabetes at each public school, at least:

(a) One (1) care provider for a public school with one (1) full-time licensed registered nurse; and

(b) Three (3) care providers for a public school without one (1) full-time licensed registered nurse.

(ii) The school district may recruit and identify public school personnel to serve as care providers to administer glucagon or insulin, or both, when a licensed registered nurse is not available.

(iii) A school district shall not require or pressure a parent or guardian of a student with diabetes to provide diabetes care at school or a school-related activity.

(D) A school district, school district employee, or an agent of a school district, including a healthcare professional who trained volunteer school personnel designated as care providers and a care provider, shall not be liable for any damages resulting from his or her actions or inactions under this section.

(E) The Arkansas State Board of Nursing and the State Board of Education shall promulgate rules necessary to administer this subdivision (11);

(12)(A) Health maintenance activities by a designated care aide for a:

(i) Competent adult at the direction of the adult; or

(ii) Minor child or incompetent adult at the direction of a caretaker.

(B) As used in this section:

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- (i) "Caretaker" means a person who is:
 - (a) Directly and personally involved in providing care for a minor child or incompetent adult; and
 - (b) The parent, foster parent, family member, friend, or legal guardian of the minor child or incompetent adult receiving care under subdivision (12)(B)(i)(a) of this section;
- (ii) "Competent adult" means an individual who:
 - (a) Is eighteen (18) years of age or older; and
 - (b) Has the capability and capacity to make an informed decision; and
- (iii) "Health maintenance activities" means activities that:
 - (a) Enable a minor child or adult to live in his or her home; and
 - (b) Are beyond activities of daily living that:
 - (1) The minor child or adult is unable to perform for himself or herself; and
 - (2) The attending physician, advanced practice registered nurse, or registered nurse determines can be safely performed in the minor child's or adult's home by a designated care aide under the direction of a competent adult or caretaker.
- (C) As used in this section, "home" does not include:
 - (i) A nursing home;
 - (ii) An assisted living facility;
 - (iii) A residential care facility;
 - (iv) An intermediate care facility; or
 - (v) A hospice care facility.
- (D) The Arkansas State Board of Nursing, with the input of the Arkansas Health Care Association and the Arkansas Residential Assisted Living Association, Inc., shall promulgate rules specifying which health maintenance activities are not exempted under this subdivision (12) and the minimal qualifications required of the designated care aide; or
- (13) The practice of nursing through a program in partnership with federal Innovative Readiness Training if the nurse has obtained a license to practice from another state, commonwealth, territory, or the District of Columbia.

History

Acts 1971, No. 432, §§ 1, 2, 17; 1979, No. 404, §§ 1, 7; 1979, No. 613, §§ 1, 2; 1980 (1st Ex. Sess.), No. 14, §§ 1, 3; 1985, No. 189, § 2; A.S.A. 1947, §§ 72-745, 72-746, 72-761; Acts 1995, No. 409, § 3; 1997, No. 1065, § 2; 2005, No. 1440, § 1; 2011, No. 1204, § 1; 2013, No. 604, §§ 3, 4; 2013, No. 1232, § 1; 2015, No. 833, § 2; 2017, No. 205, § 4; 2017, No. 540, § 28.

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.

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(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 (1st Ex. Sess.), No. 14, § 4; A.S.A. 1947, § 72-762; Acts 1995, No. 409, § 4; 2013, No. 604, §§ 5, 6.

17-87-105. Injunction.

(a) The Pulaski County Circuit Court is vested with jurisdiction and power to enjoin the unlawful practice of nursing in any county of the State of Arkansas in a proceeding by the Arkansas State Board of Nursing or by any member thereof or by any citizen in this state.

(b) The issuance of any injunction shall not relieve a person from criminal prosecution for violation of the provisions of this chapter. The remedy of injunction is to be in addition to liability for criminal prosecution.

History

Acts 1971, No. 432, § 19; A.S.A. 1947, § 72-763.

17-87-106. Construction of chapter.

Nothing in this chapter relating to the practice of advanced practice nursing shall be construed to limit or alter the scope of practice of any registered nurse practitioner or any other licensed nurse.

History

Acts 1995, No. 409, § 21.

SUBCHAPTER 2 – ARKANSAS STATE BOARD OF NURSING

SECTION.

- 17-87-201. Creation - Members.
- 17-87-202. Organization and proceedings.
- 17-87-203. Powers and duties.
- 17-87-204. Deposit of funds.

SECTION.

- 17-87-205. Prescriptive Authority Advisory Committee
- 17-87-206. Subpoenas and subpoenas duces tecum.
- 17-87-207. Continuing Education

17-87-201. Creation – Members.

(a) There is created the Arkansas State Board of Nursing, to be composed of thirteen (13) members to be appointed by the Governor for terms of four (4) years, subject to confirmation by the Senate.

(b) (1) Five (5) members shall be registered nurses whose highest level of educational preparation shall be as follows:

- (A) One (1) nursing diploma graduate;
- (B) Two (2) associate degree graduates; and
- (C) Two (2) baccalaureate degree or postbaccalaureate degree graduates.

(2) Each registered nurse member of the board shall have the following qualifications:

- (A) Be an Arkansas resident;
- (B) Have at least five (5) years of successful experience as a registered nurse in nursing practice, administration, or teaching;
- (C) Be licensed in Arkansas as a registered nurse; and
- (D) Have been employed as a registered nurse for at least three (3) years immediately preceding appointment, two (2) years of which shall have been in Arkansas.

(c) (1) Two (2) members shall be licensed advanced practice registered nurses.

(2) Each licensed advanced practice registered nurse board member shall have the following qualifications:

- (A) Be an Arkansas resident;
- (B) Have at least five (5) years of experience as an advanced practice registered nurse;
- (C) Be licensed in Arkansas as an advanced practice registered nurse; and
- (D) Have been actively engaged in nursing for at least three (3) years immediately preceding appointment, two (2) years of which shall have been in Arkansas.

(3) One (1) member who is an advance practice registered nurse shall hold a certificate granting prescriptive authority.

(d) (1) Three (3) members shall be licensed practical nurses or licensed psychiatric technician nurses.

(2) Each licensed practical nurse board member or licensed psychiatric technician nurse board member shall

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have the following qualifications:

- (A) Be an Arkansas resident;
 - (B) Have at least five (5) years of successful experience as a practical nurse or psychiatric technician nurse or as a teacher in an educational program to prepare practitioners of nursing;
 - (C) Be licensed in Arkansas as a licensed practical nurse or licensed psychiatric technician nurse; and
 - (D) Have been employed as a licensed practical nurse or as a licensed psychiatric technician nurse for at least three (3) years immediately preceding appointment, two (2) years of which shall have been in Arkansas.
- (e) One (1) member shall be an at-large licensed registered nurse or licensed practical nurse.
- (f) At least one (1) member who is a licensed registered nurse or advanced practice registered nurse also shall be a nursing program educator.
- (g) One (1) member shall be a lay person representing consumers of healthcare services.
- (h) (1) One (1) member shall be sixty (60) years of age or older and shall be the representative of the elderly.
- (2) This member shall be appointed from the state at large, subject to confirmation by the Senate, and shall be a full voting member.
- (i) The consumer representative and the representative of the elderly positions may not be filled by the same person.
- (j) A member shall not be appointed to more than two (2) consecutive terms.
- (k) Board members may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.
- (l) The terms of all registered nurse members and advanced practice registered nurse members shall be four (4) years.

History

Acts 1971, No. 432, §§ 3, 4; 1977, No. 113, §§ 1-3; 1979, No. 404, §§ 2, 3; 1981, No. 717, § 2; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; 1985, No. 189, § 1; A.S.A. 1947, §§ 6-617 -- 6-619, 6-623 -- 6-626, 72-747, 72-748; Acts 1995, No. 409, § 5; 1997, No. 250, § 159; 1999, No. 941, § 1; 2001, No. 149, §§ 1, 2; 2007, No. 205, § 1; 2013, No. 604, §§ 7, 8; 2015, No. 997, § 1.

17-87-202. Organization and proceedings.

- (a) (1) It shall be the duty of the Arkansas State Board of Nursing to meet regularly at least one (1) time every six (6) months for the purpose of conducting its business.
- (2) Special meetings of the board may be called at any time at the pleasure of the President of the Arkansas State Board of Nursing or by the Secretary of the Arkansas State Board of Nursing on the request of any three (3) members of the board.
- (3) A majority of the members shall constitute a quorum at any meeting of the board.
- (4) The board shall determine by its own rules the time and manner of giving notice of meetings to its members.
- (5) The giving of an examination for licensure shall not be considered as a meeting of the board.

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(b) The secretary shall keep a record of the minutes of the meetings of the board, together with a record of the action of the board thereon. The records shall at all reasonable times be open for public inspection.

(c) The board shall maintain an office for the administration of its business. The board shall annually elect a president, vice president, secretary, and treasurer from among its members. The president shall be a registered nurse.

(d) The executive director shall be a registered nurse and meet the qualifications required by the board.

History

Acts 1971, No. 432, §§ 4, 8, 9; 1979, No. 404, §§ 3, 5, 6; A.S.A. 1947, §§ 72-748, 72-752, 72-753; Acts 2003, No. 41, § 1.

17-87-203. Powers and duties.

The Arkansas State Board of Nursing shall have the following powers and responsibilities:

- (1) (A) Promulgate whatever regulations it deems necessary for the implementation of this chapter.
 - (B) No regulation promulgated hereafter by the board shall be effective until reviewed by the Legislative Council and the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof;
- (2) Cause the prosecution of persons violating this chapter;
- (3) Keep a record of all its proceedings;
- (4) Make an annual report to the Governor;
- (5) Employ personnel necessary for carrying out its functions;
- (6) Study, review, develop, and recommend role levels of technical classes of nursing service and practice to state and federal health agencies and to public and private administrative bodies;
- (7) Fix the time for holding its regular meetings;
- (8) Prescribe minimum standards and approve curricula for educational programs preparing persons for licensure as registered nurses, advanced practice registered nurses, registered nurse practitioner nurses, licensed practical nurses, and licensed psychiatric technician nurses;
- (9) Prescribe minimum standards and approve curricula for educational programs preparing persons for certification as medication assistive persons;
- (10) Provide for surveys of such programs at such times as it deems necessary or at the request of the schools;
- (11) Approve programs that meet the requirements of this chapter;
- (12) Deny or withdraw approval from educational programs for failure to meet prescribed standards;
- (13) Examine, certify, and renew the certification of qualified applicants for medication assistive persons;
- (14) Examine, license, and renew the licenses of qualified applicants for professional nursing, practical nursing, and psychiatric technician nursing;
- (15) License and renew the licenses of qualified applicants for registered nurse practitioner nursing and advanced practice nursing;

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- (16) Grant certificates of prescriptive authority to qualified advanced practice registered nurses;
- (17) Convene an advisory committee as provided for in this chapter to assist with oversight of prescriptive authority;
- (18) Convene an advisory committee as provided for in this chapter to assist with oversight of medication assistive persons;
- (19) Establish the maximum number of medication assistive persons who may be supervised by a nurse;
- (20) Conduct disciplinary proceedings as provided for in this chapter; and
- (21) Promulgate rules limiting the amount of Schedule II narcotics that may be prescribed and dispensed by licensees of the board.

History

Acts 1971, No. 432, § 4; 1979, No. 404, § 3; A.S.A. 1947, § 72-748; Acts 1995, No. 409, § 6; 1997, No. 179, § 13; 2005, No. 1423, § 2; 2013, No. 604, §§ 9, 10; 2017, No. 820, § 9.

17-87-204. Deposit of funds.

All funds received by the Arkansas State Board of Nursing shall be deposited into the State Treasury to the credit of the board.

History

Acts 1971, No. 432, § 14; 1979, No. 404, § 4; A.S.A. 1947, § 72-758.

17-87-205. Prescriptive Authority Advisory Committee.

- (a) (1) The Prescriptive Authority Advisory Committee is created as an advisory committee to the Arkansas State Board of Nursing.
 - (2) The committee shall assist the board in implementing the provisions of this chapter regarding prescriptive authority.
- (b) The board shall appoint six (6) members, to be approved by the Governor, who have the following qualifications:
 - (1) Four (4) members shall be advanced practice registered nurses at least three (3) of whom hold certificates of prescriptive authority and an active Drug Enforcement Administration number;
 - (2) One (1) member shall be a licensed physician who has been involved in a collaborative practice with an advanced practice registered nurse for at least five (5) years; and
 - (3) One (1) member shall be a licensed pharmacist who has been licensed for at least five (5) years.
- (c) Members shall serve three-year terms.
- (d) The board may remove any committee member, after notice and hearing, for incapacity, incompetence, neglect of duty, or malfeasance in office.

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(e) The members shall serve without compensation, but may receive expense reimbursement in accordance with § 25-16-901 et seq.

History

Acts 1995, No. 409, § 7; 1997, No. 250, § 160; 2013, No. 604, § 11.

17-87-206. Subpoenas and subpoenas duces tecum.

(a) The Arkansas State Board of Nursing shall have the power to issue subpoenas and subpoenas duces tecum in connection with both its investigations and hearings.

(b) 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.

(c) (1) Service of a 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.

(2) (A) The board shall issue a subpoena or subpoena duces tecum upon the request of any party to a hearing before the board.

(B) 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.

(d) (1) 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.

(2) 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.

History

Acts 1997, No. 894, § 1.

17-87-207. Continuing education.

(a) (1) The Arkansas State Board of Nursing shall adopt rules setting minimum standards for continuing education to ensure that all licensed nurses remain informed about those technical and professional subjects which the board deems appropriate to nursing practice.

(2) The board shall not require more than twenty (20) hours of continuing education per year.

(b) The board shall make every effort to ensure that the continuing education programs are offered either within the nurse's workplace or at another place convenient to the nurse, whether through live presentation or distance learning.

(c) (1) The board shall adopt rules to prescribe the methods by which the minimum standards for continuing education may be satisfied.

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(2) The failure of any licensed nurse to satisfy the minimum standards for continuing education shall be grounds for disciplinary action or nonrenewal of the nurse's license, or both.

History

Acts 2001, No. 86, § 1.

SUBCHAPTER 3 – LICENSING

SECTION.

- 17-87-301. Registered nurses.
- 17-87-302. Advanced practice registered nurses.
- 17-87-303. Registered nurse practitioners.
- 17-87-304. Licensed practical nurses.
- 17-87-305. Licensed psychiatric technician nurses.

SECTION.

- 17-87-306. Fees.
- 17-87-307. Temporary permits.
- 17-87-308. Renewal of licenses.
- 17-87-309. Disciplinary actions.
- 17-87-310. Prescriptive authority.
- 17-87-311. Direct reimbursement agreements.
- 17-87-312. Criminal background checks.

17-87-301. Registered nurses.

(a) **Qualifications.** Before taking the examination or before the issuance of a license by endorsement, an applicant for a license to practice professional nursing shall submit to the Arkansas State Board of Nursing written evidence, verified by oath, that the applicant:

- (1) Is of good moral character;
- (2) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency; and
- (3) Has completed the required approved professional nursing education program.

(b) **Issuance of License.** A license to practice as a registered nurse may be issued:

- (1) **By Examination.** The applicant shall be required to pass an examination in such subjects as the board may determine. Upon successfully passing the examination, the board shall issue to the applicant a license to practice professional nursing as a registered nurse;
- (2) **By Endorsement.** The board may issue a license to practice professional nursing as a registered nurse by endorsement to an applicant who has been duly licensed as a registered nurse under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the qualifications required of registered nurses in this state at the time of graduation and if the board so recommends.

(c) **Nurses Registered Prior to March 29, 1971.** Any person holding a license or certificate of registration to practice nursing as a registered nurse issued by the board which was valid on March 29, 1971, shall be deemed to be licensed as a registered nurse under the provisions of this chapter.

(d) **Title and Abbreviation.** Any person who holds a license to practice professional nursing in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N."

History

Acts 1971, No. 432, § 10; 1979, No. 613, § 3; 1981 (1st Ex. Sess.), No. 19, §§ 1-3; A.S.A. 1947, § 72-754; Acts 1991, No. 162, § 1; 1995, No. 409, § 8.

17-87-302. Advanced practice registered nurses.

(a) **Qualifications.** In order to be licensed as an advanced practice registered nurse, an applicant shall show evidence of education approved by the Arkansas State Board of Nursing, and national certification approved by the board under one (1) of the following roles of an advanced practice registered nurse:

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- (1) Certified Nurse Practitioner. A certified nurse practitioner shall hold current certification by a national certifying body recognized by the board in the advanced practice registered nurse role and population foci appropriate to educational preparation;
- (2) Certified Registered Nurse Anesthetist. To qualify as a certified registered nurse anesthetist, an applicant shall:
- (A) Have earned a diploma or certificate evidencing satisfactory completion, beyond generic nursing preparation, of a formal educational program that meets the standards of the Council on Accreditation of Nurse Anesthesia Educational Programs or another nationally recognized accrediting body and that has as its objective the preparation of nurses to perform as nurse anesthetists; and
 - (B) Hold current certification by a national certifying body recognized by the board in the advanced practice registered nurse role and population foci appropriate to educational preparation;
- (3) Certified Nurse Midwife. To qualify as a certified nurse midwife, an applicant shall:
- (A) Hold current certification by a national certifying body recognized by the board in the advanced practice registered nurse role and population foci appropriate to educational preparation; and
 - (B) Have an agreement with a consulting physician if providing intrapartum care;
- (4) Clinical Nurse Specialist. In order to qualify as a clinical nurse specialist, an applicant shall:
- (A) Hold a master's degree evidencing successful completion of a graduate program in nursing, which shall include supervised clinical practice and classroom instruction in a nursing specialty; and
 - (B) Hold current certification by a national certifying body recognized by the board in the advanced practice registered nurse role and population foci appropriate to educational preparation.
- (b) Issuance of License. A license to practice as an advanced practice registered nurse may be issued:
- (1) By Application. Any person holding a license to practice as a registered nurse and meeting the educational qualifications and certification requirements to be licensed as an advanced practice registered nurse, upon application and payment of necessary fees to the board, may be licensed as an advanced practice registered nurse; and
 - (2) By Endorsement. The board may issue a license to practice advanced practice registered nursing by endorsement to any applicant who has been licensed as an advanced practice registered nurse or to a person entitled to perform similar services under a different title under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for advanced practice registered nurses in this state.
- (c) Title and Abbreviation. Any person who holds a license to practice as an advanced practice registered nurse shall have the right to use the title of "advanced practice registered nurse" and the abbreviation "A.P.R.N.".

History

Acts 1971, No. 432, § 2; 1979, No. 404, §§ 1, 7; 1979, No. 613, § 2; 1980 (1st Ex. Sess.), No. 14, §§ 5, 6; 1981 (1st Ex. Sess.), No. 19, § 8; A.S.A. 1947, §§ 72-746, 72-756.1, 72-756.2; Acts 1995, No. 409, § 9; 1999, No. 1208, § 2; 2013, No. 604, § 12.

17-87-303. Registered nurse practitioners.

- (a) (1) Any person holding a license to practice as a registered nurse and possessing the educational qualifications required under subsection (b) of this section to be licensed as a registered nurse practitioner, upon application and payment of necessary fees to the Arkansas State Board of Nursing, may be licensed as a registered nurse practitioner and have the right to use the title of "registered nurse practitioner" and the abbreviation "R.N.P.".
- (2) No other person shall assume such a title or use such an abbreviation or any other words, letters, signs, or devices to indicate that the person using them is a registered nurse practitioner.
- (b) In order to be licensed as a registered nurse practitioner, a registered nurse must hold a certificate or academic degree evidencing successful completion of the educational program of an accredited school of nursing or other nationally recognized accredited program recognized by the board as meeting the requirements of a nurse practitioner program.
- (c) However, any person qualified to receive a license as a registered nurse practitioner may obtain the license upon the payment of a fee not to exceed twenty-five dollars (\$25.00) for the original license. The license fees are to be in addition to the person's registered nurse license fees.

History

Acts 1971, No. 432, §§ 2, 10; 1979, No. 404, §§ 1, 7; 1979, No. 613, §§ 2, 3; 1981 (1st Ex. Sess.), No. 19, §§ 1-3; A.S.A. 1947, §§ 72-746, 72-754.

17-87-304. Licensed practical nurses.

- (a) Qualifications. An applicant for a license to practice practical nursing shall submit to the Arkansas State Board of Nursing evidence, verified by oath, that the applicant:
- (1) Is of good moral character;
 - (2) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency; and
 - (3) Has completed a prescribed curriculum in a state-approved program for the preparation of practical nurses and holds a diploma or certificate therefrom. However, the board may waive this requirement if the board determines the applicant to be otherwise qualified.
- (b) Issuance of License. A license to practice as a practical nurse may be issued:
- (1) By Examination. The applicant shall be required to pass an examination in such subjects as the board may determine. Upon successful completion of the examination, the board shall issue to the applicant a license to practice as a licensed practical nurse;
 - (2) By Endorsement. The board may issue a license to practice practical nursing by endorsement to any applicant who has duly been licensed or registered as a licensed practical nurse or to a person entitled to perform similar services under a different title under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this state at the time of graduation and if the board so recommends.
- (c) Person Licensed Prior to March 29, 1971. Any person holding a license to practice as a practical nurse issued by the board and which was valid on March 29, 1971, shall be deemed to be licensed as a practical nurse under the provisions of this chapter.

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(d) Title and Abbreviation. Any person who holds a license to practice practical nursing in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N.".

History

Acts 1971, No. 432, § 11; 1981, No. 54, § 1; 1981 (1st Ex. Sess.), No. 19, §§ 4, 5; A.S.A. 1947, § 72-755; Acts 1991, No. 162, § 2; 1995, No. 409, § 10.

17-87-305. Licensed psychiatric technician nurses.

(a) Qualifications. An applicant for a license to practice psychiatric technician nursing shall submit to the Arkansas State Board of Nursing evidence, verified by oath, that the applicant:

- (1) Is of good moral character;
- (2) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency; and
- (3) Has completed a prescribed curriculum in a state-approved program for the preparation of psychiatric technician nurses and holds a diploma or certificate therefrom. However, the board may waive this requirement if the board determines the applicant to be otherwise qualified.

(b) Issuance of License. A license to practice as a psychiatric technician nurse may be issued:

- (1) By Examination. The applicant shall be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral examination. Upon successfully passing the examination, the board shall issue to the applicant a license to practice as a psychiatric technician nurse. All such examinations shall be conducted by an examiner, who shall be a registered nurse, and by an assistant examiner, who shall be a licensed psychiatric technician nurse;
- (2) By Endorsement. The board may issue a license to practice psychiatric technician nursing by endorsement to an applicant who has duly been licensed or registered as a licensed psychiatric technician nurse or a person entitled to perform similar services under a different title under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed psychiatric technician nurses in this state at the time of graduation and if the board so recommends.

(c) Person Licensed Prior to March 29, 1971. Any person holding a license to practice as a psychiatric technician issued by the board in accordance with Acts 1953, No. 124 [repealed], and which was valid on March 29, 1971, shall be deemed to be licensed as a psychiatric technician nurse under the provisions of this chapter.

(d) Title and Abbreviation. Any person who holds a license to practice psychiatric technician nursing in this state shall have the right to use the title "licensed psychiatric technician nurse" and the abbreviation "L.P.T.N.".

History

Acts 1971, No. 432, § 12; 1981, No. 54, § 2; 1981 (1st Ex. Sess.), No. 19, §§ 6, 7; A.S.A. 1947, § 72-756; Acts 1995, No. 409, § 11.

17-87-306. Fees.

The Arkansas State Board of Nursing shall establish and collect fees and penalties for services relating to certification, examination, licensing, endorsement, certification for prescriptive authority, temporary permits, license renewal, certification renewal, and other reasonable services as determined by the board.

History

Acts 1995, No. 409, § 12; 2005, No. 1423, § 3.

17-87-307. Temporary permits.

(a) (1) Upon application and payment of the required fee, the Arkansas State Board of Nursing may issue a temporary permit to practice professional, practical, or psychiatric technician nursing to a qualified applicant who has:

(A) Completed a program in professional, practical, or psychiatric technician nursing approved by the appropriate state or national authorizing agency of this state or country and by the appropriate authorizing agency of other states or territories or foreign countries; and

(B) Applied for or is awaiting results of the first examination he or she is eligible to take after the permit is issued.

(2) The permit shall become invalid upon notification to the applicant of the results of the first examination he or she is eligible to take after the permit is issued.

(b) (1) Upon application and payment of the required fee, the board shall issue a temporary permit to a qualified applicant holding a current professional, practical, or psychiatric technician license from another jurisdiction from any other state or territory awaiting endorsement.

(2) This permit must have an issuance date and an expiration date. The permit shall be valid for no more than six (6) months.

(c) (1) Upon application and payment of the required fee, an applicant shall be issued a temporary permit to practice advanced practice nursing who has:

(A) Satisfactorily completed an educational program for advanced practice nursing approved by the board; and

(B) Been accepted by the appropriate certification body to sit for the first national certification exam he or she is eligible to take.

(2) The permit shall expire upon notification to the applicant of the results of the examination.

(3) The permit is not renewable and does not apply to prescriptive authority.

(d) (1) Upon application and payment of the required fee, the board shall issue a temporary permit to a qualified applicant holding a current advanced practice registered nurse license or the equivalent from another jurisdiction from any other state or territory awaiting endorsement.

(2) (A) This permit must have an issuance date and a date when it shall become invalid.

(B) The permit shall automatically become invalid upon notification of the applicant's failure to pass the appropriate national certification exam.

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(C) In no event shall the permit be valid in excess of six (6) months.

History

Acts 1971, No. 432, § 13; 1977, No. 88, § 1; 1979, No. 90, § 1; 1980 (1st Ex. Sess.), No. 14, § 2; 1981 (1st Ex. Sess.), No. 19, § 9; A.S.A. 1947, § 72-757; Acts 1995, No. 409, § 13; 2001, No. 303, § 1; 2013, No. 604, § 13.

17-87-308. Renewal of licenses.

- (a) (1) The Arkansas State Board of Nursing shall prescribe the procedure for the cyclical biennial renewal of licenses to every person licensed by the board.
- (2) In each case, the board shall mail a notification for renewal to the licensee at least thirty (30) days prior to the expiration date of the license.
- (b) Upon receipt of the application and the fee, the board shall verify the accuracy of the application and renew the license for a period to expire on the last day of the current biennial cycle.
- (c) The renewal shall render the holder a legal practitioner of nursing for the period stated in subsection (b) of this section.
- (d) Any licensee who allows his or her license to lapse by failing to renew the license as provided in this section may be reinstated by the board on payment of the renewal fee plus a penalty.
- (e) Any person practicing nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of this chapter.
- (f) (1) (A) An individual may place his or her license on inactive status with written notification to the board.
- (B) The holder of an inactive license shall not practice nursing in this state.
- (2) (A) The provisions relating to the denial, suspension, and revocation of a license shall be applicable to an inactive or lapsed license.
- (B) When proceedings to suspend or revoke an inactive license or otherwise discipline the holder of an inactive license have been initiated, the license shall not be reinstated until the proceedings have been completed.
- (3) An inactive license may be placed in an active status upon compliance with the rules established by the board.
- (g) As a condition of licensure renewal, an advanced practice registered nurse shall submit proof of current national certification and successful completion of continuing education as required by the board.
- (h) The board shall waive the renewal fee of a nurse who:
- (1) Holds a license to practice nursing in the State of Arkansas; and
- (2) Is an active-duty member of the military.

History

Acts 1971, No. 432, § 13; 1981 (1st Ex. Sess.), No. 19, § 9; A.S.A. 1947, § 72-757; Acts 1987, No. 147, § 1; 1995, No. 409, § 14; 1997, No. 179, § 14; 2005, No. 61, § 1; 2013, No. 604, § 14; 2017, No. 204, § 4.

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 § 17-87-312(f), unless the person requests and the board grants a waiver pursuant to § 17-87-312(h).
- (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, § 16; A.S.A. 1947, § 72-760; Acts 1995, No. 409, § 15; 1999, No. 1208, § 3; 2001, No. 212, § 1; 2007, No. 207, § 1.

17-87-310. Prescriptive authority.

(a) The Arkansas State Board of Nursing may grant a certificate of prescriptive authority to an advanced practice registered nurse who:

- (1) Submits proof of successful completion of an Arkansas State Board of Nursing-approved advanced pharmacology course that shall include preceptorial experience in the prescription of drugs, medicines, and therapeutic devices; and
- (2) Has a collaborative practice agreement with a practicing physician who is licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and who has training in scope, specialty, or expertise to that of the advanced practice registered nurse on file with the Arkansas State Board of Nursing.

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- (b) (1) An advanced practice registered nurse with a certificate of prescriptive authority may receive and prescribe drugs, medicines, or therapeutic devices appropriate to the advanced practice registered nurse's area of practice in accordance with rules established by the Arkansas State Board of Nursing.
- (2) An advanced practice registered nurse's prescriptive authority shall extend only to drugs listed in Schedules III -- V and, if expressly authorized by the collaborative practice agreement, also to those hydrocodone combination products reclassified from Schedule III to Schedule II as of October 6, 2014.
- (3) (A) The Arkansas State Board of Nursing shall promptly adopt rules applicable to an advanced practice registered nurse that are consistent with the Arkansas State Medical Board's rules governing the prescription of dangerous drugs and controlled substances.
- (B) Prior to approval of the Arkansas State Board of Nursing's rules, the Arkansas State Medical Board shall review the proposed rules and verify that the proposed rules are consistent with the Arkansas State Medical Board's rules concerning the prescription of dangerous drugs and controlled substances.
- (c) A collaborative practice agreement shall include, but not be limited to, provisions addressing:
- (1) The availability of the collaborating physician for consultation or referral, or both;
 - (2) Methods of management of the collaborative practice, which shall include protocols for prescriptive authority;
 - (3) Coverage of the healthcare needs of a patient in the emergency absence of the advanced practice registered nurse or physician; and
 - (4) Quality assurance.
- (d) If a collaborative practice results in complaints of violations of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., the Arkansas State Medical Board may review the role of the physician in the collaborative practice to determine if the physician is unable to manage his or her responsibilities under the agreement without an adverse effect on the quality of care of the patient.
- (e) If a collaborative practice results in complaints of violations of this chapter, the Arkansas State Board of Nursing may review the role of the advanced practice registered nurse in the collaborative practice to determine if the nurse is unable to manage his or her responsibilities under the agreement without an adverse effect on the quality of care of the patient.

History

Acts 1995, No. 409, § 16; 2013, No. 604, § 15; 2015, No. 529, § 1; 2015, No. 824, § 1.

17-87-311. Direct reimbursement agreements.

- (a) An advanced practice registered nurse or a registered nurse practitioner may enter into a direct reimbursement agreement with the agency administering the state Medicaid program.
- (b) The agency administering the state Medicaid program shall not discriminate against practitioners providing covered services within the scope of their practice based on the type of practitioner.

History

Acts 1995, No. 409, § 17; 2013, No. 604, § 16.

17-87-312. Criminal background checks.

- (a) (1) Each first-time applicant for a license issued by the Arkansas State Board of Nursing shall apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check, to be conducted by the Federal Bureau of Investigation.

(2) At the time a person applies to an Arkansas nursing educational program, the program shall notify the applicant in writing of the provisions and requirements of this section.
- (b) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.
- (c) The applicant shall sign a release of information to the board and shall be responsible to the Department of Arkansas State Police for the payment of any fee associated with the criminal background check.
- (d) Upon completion of the criminal background check, the Identification Bureau of the Department of Arkansas State Police shall forward to the board all information obtained concerning the applicant in the commission of any offense listed in subsection (e) of this section.
- (e) Except as provided in subdivision (1)(1) of this section, a person shall not be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to or has been found guilty of any of the following offenses by a court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:
 - (1) Capital murder as prohibited in § 5-10-101;
 - (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
 - (3) Manslaughter as prohibited in § 5-10-104;
 - (4) Negligent homicide as prohibited in § 5-10-105;
 - (5) Kidnapping as prohibited in § 5-11-102;
 - (6) False imprisonment in the first degree as prohibited in § 5-11-103;
 - (7) Permanent detention or restraint as prohibited in § 5-11-106;
 - (8) Robbery as prohibited in § 5-12-102;
 - (9) Aggravated robbery as prohibited in § 5-12-103;
 - (10) Battery in the first degree as prohibited in § 5-13-201;
 - (11) Aggravated assault as prohibited in § 5-13-204;
 - (12) Introduction of a controlled substance into the body of another person as prohibited in § 5-13-210;
 - (13) Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;
 - (14) Terroristic threatening in the first degree as prohibited in § 5-13-301;
 - (15) Rape as prohibited in § 5-14-103;

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- (16) Sexual indecency with a child as prohibited in § 5-14-110;
 - (17) Sexual extortion, § 5-14-113;
 - (18) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 -- 5-14-127;
 - (19) Incest as prohibited in § 5-26-202;
 - (20) Felony offenses against the family as prohibited in §§ 5-26-303 -- 5-26-306;
 - (21) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5- 27-201;
 - (22) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205 and endangering the welfare of a minor in the second degree as prohibited in § 5-27-206;
 - (23) Permitting abuse of a minor as prohibited in § 5-27-221(a);
 - (24) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303 -- 5-27-305, 5-27-402, and 5-27-403;
 - (25) Computer child pornography as prohibited in § 5-27-603;
 - (26) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;
 - (27) Felony adult abuse as prohibited in § 5-28-103;
 - (28) Felony theft of property as prohibited in § 5-36-103;
 - (29) Felony theft by receiving as prohibited in § 5-36-106;
 - (30) Arson as prohibited in § 5-38-301;
 - (31) Burglary as prohibited in § 5-39-201;
 - (32) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 -- 5-64-510, as prohibited in the former § 5-64-401 and §§ 5-64-419 -- 5-64-442;
 - (33) Promotion of prostitution in the first degree as prohibited in § 5-70-104;
 - (34) Stalking as prohibited in § 5-71-229; and
 - (35) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.
- (f) (1) (A) The board may issue a nonrenewable temporary permit for licensure to a first-time applicant pending the results of the criminal background check.
- (B) The permit shall be valid for no more than six (6) months.
- (2) Except as provided in subdivision (1)(1) of this section, upon receipt of information from the Identification Bureau of the Department of Arkansas State Police that the person holding the letter of provisional licensure has pleaded guilty or nolo contendere to, or has been found guilty of, any offense listed in subsection (e) of this section, the board shall immediately revoke the provisional license.

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(g) (1) The provisions of subsection (e) and subdivision (f)(2) of this section may be waived by the board upon the request of:

- (A) An affected applicant for licensure; or
- (B) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

- (A) The age at which the crime was committed;
- (B) The circumstances surrounding the crime;
- (C) The length of time since the crime;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references; and
- (G) Other evidence demonstrating that the applicant does not pose a threat to the health or safety of the public.

(h) (1) Any information received by the board from the Identification Bureau of the Department of Arkansas State Police pursuant to this section shall not be available for examination except by:

- (A) The affected applicant for licensure or his or her authorized representative; or
- (B) The person whose license is subject to revocation or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.

(i) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(j) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than this background check.

(k) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section.

(l) (1) For purposes of this section, an expunged record of a conviction or a plea of guilty or nolo contendere to an offense listed in subsection (e) of this section shall not be considered a conviction, guilty plea, or nolo contendere plea to the offense unless the offense is also listed in subdivision (1)(2) of this section.

(2) Because of the serious nature of the offenses and the close relationship to the type of work that is to be performed, the following shall result in permanent disqualification:

- (A) Capital murder as prohibited in § 5-10-101;
- (B) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (C) Kidnapping as prohibited in § 5-11-102;
- (D) Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;

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- (E) Rape as prohibited in § 5-14-103;
- (F) Sexual extortion, § 5-14-113;
- (G) Sexual assault in the first degree as prohibited in § 5-14-124 and sexual assault in the second degree as prohibited in § 5-14-125;
- (H) Incest as prohibited in § 5-26-202;
- (I) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;
- (J) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205;
- (K) Adult abuse that constitutes a felony as prohibited in § 5-28-103; and
- (L) Arson as prohibited in § 5-38-301.

History

Acts 1999, No. 1208, § 4; 2001, No. 303, §§ 2-4; 2003, No. 103, §§ 1, 2; 2003, No. 1087, § 15; 2003, No. 1386, § 1; 2003, No. 1449, § 1; 2005, No. 1923, § 2; 2011, No. 570, § 121; 2013, No. 302, § 1; 2015, No. 1047, § 1; 2017, No. 367, §§ 17, 18; 2017, No. 492, § 1; 2017, No. 664, §§ 11, 12.

SUBCHAPTER 4 – EDUCATIONAL PROGRAMS

SECTION.

17-87-401. Nursing education programs.

17-87-402. Institutions of higher education –
Challenge and validation
examinations.

SECTION.

17-87-403. Nursing recruitment and admission.

17-87-401. Nursing education programs.

(a) An institution desiring to conduct a nursing education program to prepare professional, advanced practice, nurse practitioner, practical, and psychiatric technician nurses shall apply to the Arkansas State Board of Nursing and submit evidence that:

(1) It is prepared to carry out a program in professional nursing education, advanced practice nursing education, nurse practitioner nursing education, practical nursing education, or psychiatric technician nursing training, as the case may be; and

(2) It is prepared to meet such standards as shall be established by this chapter and by the board.

(b) (1) A survey of the institution and its entire nursing education program shall be made by an authorized representative of the board, who shall submit a written report of the survey to the board.

(2) If, in the opinion of the board, the requirements for an approved nursing education program are met, the program shall be approved as a nursing education program for professional, advanced practice, nurse practitioner, practical, and psychiatric technician nurses.

(c) (1) From time to time, as deemed necessary, it shall be the duty of the board, through its authorized representative, to survey its nursing education programs in the state.

(2) Written reports of such surveys shall be submitted to the board.

(3) If the board shall determine that any approved nursing education program under its supervision is not maintaining the standards required by the statutes and by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the institution conducting the program.

(4) A program that fails within a reasonable time to correct these conditions to the satisfaction of the board shall be withdrawn after a hearing.

History

Acts 1971, No. 432, § 15; A.S.A. 1947, § 72-759; Acts 1995, No. 409, § 18.

17-87-402. Institutions of higher education – Challenge and validation examinations.

(a) As used in this section:

(1) "Challenge examination" means a test designed to determine the level of knowledge of the person being tested in the subject area of the test. Challenge examinations may cover any area of academic pursuit; and

(2) "Validation examination" means an evaluation of prior knowledge, experience, or skills. Validation examinations are administered to determine the proper placement of the examinee within the nurse training program.

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(b) The Department of Higher Education shall:

- (1) Encourage and supervise the development of methods of validation of nursing knowledge and skills through written and clinical testing mechanisms;
- (2) Review and approve validation and challenge examinations for fairness and relevant content;
- (3) Set uniform passing scores to be used by institutions of higher education in this state for passing standardized validation and challenge examinations when the passing scores are not determined at the national level; and
- (4) Require schools using individual school-made tests to select one (1) standard passing score for each test which any level of student must achieve to receive credit.

(c) All institutions of higher education in this state shall use standardized validation and challenge examinations or devise their own. All challenge examinations and all validation examinations shall be submitted to the department for its approval. Upon the successful passing of a validation examination or challenge examination, the examinee shall be given credit for the course which is the subject of the test.

(d) Each Arkansas institution of higher education shall accept the credit given by other Arkansas institutions of higher education for the successful passing of a challenge examination or a validation examination on any course required in the nursing curriculum.

(e) (1) Licensed practical nurses and licensed psychiatric technician nurses may transfer or challenge by test, or validate, up to thirty (30) semester credit hours from the total nursing program curriculum upon entering diploma, associate degree, or baccalaureate degree programs in nursing in Arkansas. This does not include other hours they may have earned which may also be transferred.

(2) Registered nurses may transfer or challenge by test, or validate, up to sixty (60) semester credit hours from the total nursing program curriculum upon entering a baccalaureate degree program in nursing in Arkansas. This does not include other hours they may have earned which may also be transferred.

History

Acts 1979, No. 88, §§ 1-5; A.S.A. 1947, §§ 72-759.1 -- 72-759.5.

17-87-403. Nursing recruitment and admission.

Upon request, the Arkansas State Board of Nursing shall provide assistance to publicly supported institutions of higher education in implementing programs offered under § 6-60-212.

History

Acts 2005, No. 1256, § 2.

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SUBCHAPTER 5 – NURSE MIDWIVES

SECTION.

17-87-501 - 17-87-507. [Repealed.]

SUBCHAPTER 6 – NURSE LICENSURE COMPACT

SECTION.

17-87-601. Text of Compact.

17-87-602. Practice privileges – Powers of Board to limit or revoke.

SECTION.

17-87-603. Definition.

17-87-604. Effective date.

17-87-601. Text of Compact. [Effective on date stated in Acts 2017, No. 454, § 2.]

The Interstate Nurse Licensure Compact is enacted into law and entered into by this state with all states legally joining therein and in the form substantially as follows:

NURSE LICENSURE COMPACT

ARTICLE I

Findings and Declaration of Purpose

(a) The party states find that:

- (1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
- (2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
- (3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;
- (4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;
- (5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states; and
- (6) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(b) The general purposes of this Compact are to:

- (1) Facilitate the states' responsibility to protect the public's health and safety;
- (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

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- (3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;
- (4) Promote compliance with the laws governing the practice of nursing in each jurisdiction;
- (5) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
- (6) Decrease redundancies in the consideration and issuance of nurse licenses; and
- (7) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II **Definitions**

As used in this Compact:

- (a) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.
- (b) "Alternative program" means a non-disciplinary monitoring program approved by a licensing board.
- (c) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.
- (d) "Current significant investigative information" means:
 - (1) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - (2) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
- (e) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.
- (f) "Home state" means the party state which is the nurse's primary state of residence.
- (g) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.
- (h) "Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.
- (i) "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in a remote state.
- (j) "Nurse" means a RN or LPN/VN, as those terms are defined by each party's state practice laws.

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- (k) "Party state" means any state that has adopted this Compact.
- (l) "Remote state" means a party state, other than the home state.
- (m) "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.
- (n) "State" means a state, territory, or possession of the United States and the District of Columbia.
- (o) "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

General Provisions and Jurisdiction

- (a) A multistate license to practice registered nurse or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.
- (b) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.
- (c) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:
 - (1) Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;
 - (2)
 - (i) Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or
 - (ii) Has graduated from a foreign RN or LPN/VN prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;
 - (3) Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;
 - (4) Has successfully passed an NCLEX-RN(R) or NCLEX-PN(R) Examination or recognized predecessor, as applicable;
 - (5) Is eligible for or holds an active, unencumbered license;
 - (6) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purposes of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;
 - (7) Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

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- (8) Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;
- (9) Is not currently enrolled in an alternative program;
- (10) Is subject to self-disclosure requirements regarding current participation in an alternative program; and
- (11) Has a valid United States Social Security number.

(d) All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(e) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

(f) Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this Compact shall affect the requirements established by a party state for the issuance of a single-state license.

(g) Any nurse holding a home state multistate license, on the effective date of this Compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

(1) A nurse, who changes primary state of residence after this Compact's effective date, must meet all applicable Article III.c. requirements to obtain a multistate license from a new home state.

(2) A nurse who fails to satisfy the multistate licensure requirements in Article III.c. due to a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators ("Commission").

ARTICLE IV

Applications for Licensure in a Party State

(a) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

(b) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(c) If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the Commission.

(1) The nurse may apply for licensure in advance of a change in primary state of residence.

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(2) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(d) If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

(a) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(1) Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

(i) Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.

(ii) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(2) Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.

(3) Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(5) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.

(6) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

(7) Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

(b) If an adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

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(c) Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI

Coordinated Licensure Information System and Exchange of Information

(a) All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPN/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) The Commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.

(c) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(d) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(e) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

(f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(g) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(h) The Compact administrator of each party state shall furnish a uniform data set to the Compact administrator of each other party state, which shall include, at a minimum:

- (1) Identifying information;
- (2) Licensure data;
- (3) Information related to alternative program participation; and
- (4) Other information that may facilitate the administration of this Compact, as determined by Commission rules.

(i) The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

(a) The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

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- (1) The Commission is an instrumentality of the party states.
- (2) Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
- (3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, Voting and Meetings

- (1) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists.
- (2) Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.
- (3) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the Commission.
- (4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII.
- (5) The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:
 - (i) Noncompliance of a party state with its obligations under this Compact;
 - (ii) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
 - (iii) Current, threatened or reasonably anticipated litigation;
 - (iv) Negotiation of contracts for the purchase or sale of goods, services or real estate;
 - (v) Accusing any person of a crime or formally censuring any person;
 - (vi) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
 - (vii) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (viii) Disclosure of investigatory records compiled for law enforcement purposes;
 - (ix) Disclosure of information related to any reports prepared by or on behalf of the Commission for the purpose of investigation of compliance with this Compact; or
 - (x) Matters specifically exempted from disclosure by federal or state statute.

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- (6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.
- (c) The Commission shall, by majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this Compact, including but not limited to:
- (1) Establishing the fiscal year of the Commission;
 - (2) Providing reasonable standards and procedures:
 - (i) For the establishment and meetings of other committees; and
 - (ii) Governing any general or specific delegation of any authority or function of the Commission;
 - (3) Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;
 - (4) Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;
 - (5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the Commission; and
 - (6) Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of this Compact after the payment or reserving of all of its debts and obligations;
- (d) The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the Commission.
- (e) The Commission shall maintain its financial records in accordance with the bylaws.
- (f) The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.
- (g) The Commission shall have the following powers:
- (1) To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all party states;
 - (2) To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;
 - (3) To purchase and maintain insurance and bonds;

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- (4) To borrow, accept or contract for services of personnel, including but not limited to, employees of a party state or nonprofit organizations;
- (5) To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;
- (6) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;
- (7) To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;
- (8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;
- (9) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;
- (10) To establish a budget and make expenditures;
- (11) To borrow money;
- (12) To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;
- (13) To provide and receive information from, and to cooperate with, law enforcement agencies;
- (14) To adopt and use an official seal; and
- (15) To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of nurse licensure and practice.

(h) Financing of the Commission

- (1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.
- (2) The Commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule that is binding upon all party states.
- (3) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the party states, except by, and with the authority of, such party state.
- (4) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and

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become part of the annual report of the Commission.

(i) Qualified Immunity, Defense and Indemnification

(1) The administrators, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

(2) The Commission shall defend any administrator, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.

(3) The Commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

ARTICLE VIII

Rulemaking

(a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(c) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

(1) On the website of the Commission; and

(2) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(d) The notice of proposed rulemaking shall include:

(1) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(2) The text of the proposed rule or amendment, and the reason for the proposed rule;

(3) A request for comments on the proposed rule from any interested person; and

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- (4) The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
- (e) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
- (f) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.
- (g) The Commission shall publish the place, time and date of the scheduled public hearing.
 - (1) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.
 - (2) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.
- (h) If no one appears at the public hearing, the Commission may proceed with promulgation of the proposed rule.
- (i) Following the scheduled hearing date, or by close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.
- (j) The Commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- (k) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
 - (1) Meet an imminent threat to public health, safety or welfare;
 - (2) Prevent a loss of Commission or party state funds; or
 - (3) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.
- (l) The Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE IX Oversight, Dispute Resolution and Enforcement

- (a) Oversight
 - (1) Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent.
 - (2) The Commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the Commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the Commission

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shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

(b) Default, Technical Assistance and Termination

(1) If the Commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

(i) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the Commission; and

(ii) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state's membership in this Compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

(4) A state whose membership in this Compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The Commission shall not bear any costs related to a state that is found to be in default or whose membership in this Compact has been terminated unless agreed upon in writing between the Commission and the defaulting state.

(6) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) Dispute Resolution

(1) Upon request by a party state, the Commission shall attempt to resolve disputes related to the Compact that arise among party states and between party and non-party states.

(2) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(3) In the event the Commission cannot resolve disputes among party states arising under this Compact:

(i) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

(ii) The decision of a majority of the arbitrators shall be final and binding.

(d) Enforcement

(1) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

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(2) By majority vote, the Commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE X

Effective Date, Withdrawal and Amendment

(a) This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this Compact, that also were parties to the prior Nurse Licensure Compact, superseded by this Compact, ("Prior Compact"), shall be deemed to have withdrawn from said Prior Compact within six (6) Months after the effective date of this Compact.

(b) Each party state to this Compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the Prior Compact until such party state has withdrawn from the Prior Compact.

(c) Any party state may withdraw from this Compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after the enactment of the repealing statute.

(d) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(e) Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this Compact.

(f) This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(g) Representatives of non-party states to this Compact shall be invited to participate in the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all states.

ARTICLE XI

Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held to be contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

History

Acts 1999, No. 220, § 1; 2013, No. 1232, § 2; 2017, No. 454, § 1.

17-87-602. Practice privileges – Power of Board to limit or revoke.

The Arkansas State Board of Nursing may limit or revoke practice privileges in this state of a person licensed to practice nursing by a jurisdiction that has joined the Compact or take action on previous practice privilege action from another party state.

History

Acts 1999, No. 220, § 2.

17-87-603. Definition.

As used in this subchapter, the term "head of the nurse licensing board" shall mean the Executive Director of the Arkansas State Board of Nursing.

History

Acts 1999, No. 220, § 3.

17-87-604. Effective date.

(a) The effective date of this Compact shall be July 1, 2000.

(b) Upon the effective date of this compact, the licensing board shall participate in an evaluation of the effectiveness and operability of the compact. Upon completion of the evaluation, a report shall be submitted to the Legislative Council for its review.

History

Acts 1999, No. 220, § 4.

SUBCHAPTER 7 – MEDICATION ASSISTIVE PERSONS

SECTION.

- 17-87-701. Definitions
- 17-87-702. Certificate required.
- 17-87-703. Designated facilities.
- 17-87-704. Qualifications.
- 17-87-705. Scope of work.
- 17-87-706. Renewal of certifications.

SECTION.

- 17-87-707. Disciplinary actions.
- 17-87-708. Penalty.
- 17-87-709. Injunction.
- 17-87-710. Medication Assistive Person Advisory Committee.
- 17-87-711. Applicability of subchapter.

17-87-701. Definitions.

As used in this subchapter:

- (1) "Board" means the Arkansas State Board of Nursing;
- (2) "Designated facility" means a type of facility determined by the board as an environment in which medication assistive persons may serve in accordance with the requirements of this subchapter and regulations promulgated by the board;
- (3) "Medication assistive person" means a person who is certified by the board to administer certain nonprescription and legend drugs in designated facilities; and
- (4) "Supervision" means the active oversight of patient care services while on the premises of a designated facility in a manner defined by the board.

History

Acts 2005, No. 1423, § 4.

17-87-702. Certificate required.

In order to safeguard life and health, any person serving or offering to serve as a medication assistive person shall:

- (1) Submit evidence that he or she is qualified to so serve; and
- (2) Be certified as provided in this subchapter.

History

Acts 2005, No. 1423, § 4.

17-87-703. Designated facilities.

(a) The Arkansas State Board of Nursing shall designate the types of facilities that may use medication assistive persons.

(b) (1) Designated facilities may not be required to use medication assistive persons.

(2) However, if a designated facility elects to use medication assistive personnel, the facility shall notify the board in a manner prescribed by the board.

History

Acts 2005, No. 1423, § 4.

17-87-704. Qualifications.

(a) In order to be certified as a medication assistive person, an applicant shall submit to the Arkansas State Board of Nursing written evidence, verified by oath, that the applicant:

- (1) (A) Is currently listed in good standing on the state's certified nurse aide registry;
- (B) Has maintained registration on the state's certified nurse aide registry continuously for a minimum of one (1) year;
- (C) Has completed at least one (1) continuous year of full-time experience as a certified nurse aide in this state;
- (D) Is currently employed at a designated facility;
- (E) Has a high school diploma or the equivalent;
- (F) Has successfully completed a literacy and reading comprehension screening process approved by the board;
- (G) Has successfully completed a medication assistive person training course of not less than one hundred (100) hours approved by the board; and
- (H) Has successfully passed an examination on subjects the board determines; or

(2) (A) Has completed a portion of a nursing education program equivalent to the medication assistive person training course; and

(B) Passed the medication aide examination.

(b) The board may issue a certification as a medication assistive person by endorsement to an applicant who has been licensed or certified as a medication assistive person under the laws of another state or territory, if:

- (1) In the opinion of the board, the applicant meets the qualifications of medication assistive persons in this state; and
- (2) The board recommends certification.

(c) Any person holding a certification as a medication assistive person shall have the right to use the title "medication assistive person" and the abbreviation "M.A.P."

History

Acts 2005, No. 1423, § 4; 2007, No. 206, § 1.

17-87-705. Scope of work.

(a) (1) A medication assistive person may perform the delegated nursing function of medication administration and related tasks in accordance with rules promulgated by the Arkansas State Board of Nursing.

(2) A medication assistive person shall perform medication administration and related tasks only:

- (A) At a designated facility; and
- (B) Under the supervision of a licensed nurse.

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(3) (A) Medication administration shall be limited to the administration of nonprescription and legend drugs ordered by an authorized prescriber by the following methods:

- (i) Orally;
- (ii) Topically;
- (iii) Drops for eye, ear, or nose;
- (iv) Vaginally;
- (v) Rectally;
- (vi) Transdermally; and
- (vii) Via oral inhaler.

(B) Medication administration by a medication assistive person shall not include controlled substances.

(b) A medication assistive person shall not:

- (1) Receive, have access to, or administer any controlled substance;
- (2) Administer parenteral, enteral, or injectable medications;
- (3) Administer any substances by nasogastric or gastrostomy tubes;
- (4) Calculate drug dosages;
- (5) Destroy medication;
- (6) Receive orders, either in writing or verbally, for new or changed medications;
- (7) Transcribe orders from the medical record;
- (8) Order initial medications;
- (9) Evaluate medication error reports;
- (10) Perform treatments;
- (11) Conduct patient assessments or evaluations; or
- (12) Engage in patient teaching activities.

History

Acts 2005, No. 1423, § 4.

17-87-706. Renewal of certifications.

(a) (1) The Arkansas State Board of Nursing shall prescribe the procedure for the cyclical renewal of medication assistive person certifications.

(2) In each case, the board shall mail a notification for renewal to the medication assistive person at least thirty (30) days before the expiration date of the certification.

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- (b) (1) Upon receipt of the renewal application and the fee, the board shall verify the accuracy of the application.
- (2) (A) If the board finds the application to be accurate, the board shall issue a certificate of renewal to the applicant.
- (B) As a condition of certification renewal, a medication assistive person shall be:
- (i) Currently listed in good standing on the state's certified nurse aide registry; and
- (ii) Required to satisfactorily complete at least eight (8) hours of continuing medication education course work as required by the board.
- (c) The renewal shall render the holder of the certificate a legal provider of medication assistive person services for the period stated in the certificate of renewal.
- (d) Any medication assistive person who allows his or her certification to lapse by failing to renew the certification as provided in this section may be reinstated by the board on:
- (1) Payment of the renewal fee plus a penalty; and
- (2) Submission of evidence that the person currently meets the requirements to serve as a medication assistive person.
- (e) Any person providing services as a medication assistive person during the time his or her certification has lapsed shall be considered to be providing services illegally and shall be subject to the penalties provided for violations of this subchapter.

History

Acts 2005, No. 1423, § 4.

17-87-707. Disciplinary actions.

- (a) The Arkansas State Board of Nursing shall have sole authority to deny, suspend, revoke, or limit any medication assistive person certificate issued by the board or applied for in accordance with the provisions of this subchapter or to otherwise discipline a certificate holder upon proof that the person:
- (1) Has been found guilty of or pleads guilty or nolo contendere to:
- (A) Fraud or deceit in procuring or attempting to procure a medication assistive person certificate;
- (B) Providing services as a medication assistive person without a valid certificate; or
- (C) Committing a crime of moral turpitude;
- (2) Is unfit or incompetent by reason of negligence, habits, or other causes;
- (3) Is habitually intemperate or is addicted to the use of habit-forming drugs;
- (4) Is mentally incompetent;
- (5) Is guilty of unprofessional conduct;
- (6) Has had a license, certificate, or registration revoked or suspended;

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- (7) Has been placed on probation or under disciplinary order in any jurisdiction;
- (8) Has voluntarily surrendered a license, certification, or registration and has not been reinstated in any jurisdiction; or
- (9) Has willfully or repeatedly violated any of the provisions of this subchapter.

(b) The board shall refuse to issue or shall revoke the certificate of any person who would be disqualified from employment under the provisions of § 20-33-213.

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

History

Acts 2005, No. 1423, § 4; 2009, No. 762, § 2.

17-87-708. Penalty.

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

(A) Sell or fraudulently obtain or furnish any medication assistive person's certificate, renewal, or record or aid or abet in any such sale or fraud;

(B) Serve as a medication assistive person under cover of any certificate or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(C) Serve as a medication assistive person unless certified by the Arkansas State Board of Nursing;

(D) Use in connection with his or her name any of the following titles, names, or initials if the user is not properly certified under this subchapter:

(i) Medication assistive person;

(ii) M.A.P.;

(iii) Medication aide;

(iv) Medication technician;

(v) Medication assistant;

(vi) Certified medication aide;

(vii) C.M.A.;

(viii) Medication assistant - Certified;

(ix) MA - C; or

(x) Any other name, title, or initials that would cause a reasonable person to believe the user is certified under this subchapter;

(E) Serve as a medication assistive person during the time his or her certification is suspended;

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(F) Conduct an education program for the preparation of medication assistive persons unless the program has been approved by the board; or

(G) Otherwise violate any provisions of this subchapter.

(2) (A) A misdemeanor under subdivision (a)(1) of this section shall be punishable by a fine of not less than twenty-five dollars (\$25.00) or more than five hundred dollars (\$500).

(B) Each subsequent offense shall be punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment of not more than thirty (30) days, or by both a 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) against a person or entity for each violation of this subchapter or regulations promulgated under this subchapter.

(2) Each day of violation shall be a separate offense.

(c) Unless a penalty assessed under this section is paid within fifteen (15) calendar days following the date for an appeal from the order, the board may file suit in Pulaski County Circuit Court to obtain a judgment for the amount of penalty not paid.

(d) The penalties permitted in this section shall be in addition to other penalties that may be imposed by the board under this subchapter.

History

Acts 2005, No. 1423, § 4; 2007, No. 206, § 2.

17-87-709. Injunction.

(a) The Pulaski County Circuit Court is vested with jurisdiction and power to enjoin the unlawful provision of medication assistive person services in any county of the State of Arkansas in a proceeding initiated by the Arkansas State Board of Nursing, any member of the board, or any citizen in this state.

(b) (1) The issuance of an injunction shall not relieve a person from criminal prosecution for violation of the provisions of this subchapter.

(2) The remedy of injunction is to be in addition to liability for criminal prosecution.

History

Acts 2005, No. 1423, § 4.

17-87-710. Medication Assistive Person Advisory Committee.

(a) (1) The Medication Assistive Person Advisory Committee is created as an advisory committee to the Arkansas State Board of Nursing.

(2) The committee shall assist the board in implementing the provisions of this subchapter regarding medication assistive persons.

(b) (1) The Governor shall appoint six (6) members, subject to confirmation by the Senate, who have the following qualifications:

(A) Two (2) members shall be certified medication assistive persons;

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- (B) One (1) member shall be a licensed nursing home administrator who has worked in that capacity for at least five (5) years;
- (C) One (1) member shall be a registered nurse who has been in a practice using certified nurse aides for at least five (5) years;
- (D) One (1) member shall be a lay person representing the interest of consumers of healthcare services; and
- (E) One (1) member shall be a nursing faculty member of an Arkansas nursing education program.(2) The Governor shall consult the board before making an appointment under this section.

(c) Members shall serve three-year terms.

(d) The board may remove any committee member after notice and hearing for incapacity, incompetence, neglect of duty, or malfeasance in office.

(e) The members of the committee shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

History

Acts 2005, No. 1423, § 4; 2007, No. 206, § 3; 2015, No. 1100, § 33.

17-87-711. Applicability of subchapter.

Nothing in this subchapter relieves a nurse from the responsibility of assessing each patient daily.

History

Acts 2005, No. 1423, § 4.

SUBCHAPTER 8 – ALTERNATIVE TO DISCIPLINE ACT

SECTION.

17-87-801. Title.

17-87-802. Purpose.

17-87-803. Definitions.

17-87-804. Alternative to Discipline Program-
Program coordinator duties-Board review.

SECTION.

17-87-805. Reporting procedure.

17-87-806. Program requirements.

17-87-807. Failure to comply.

17-87-808. Liability.

17-87-801. Title.

This subchapter shall be known and may be cited as the "Alternative to Discipline Act".

History

Acts 2017, No. 325, § 1.

17-87-802. Purpose.

The purpose of this subchapter is to:

- (1) Provide for the identification and treatment of nurses licensed by the Arkansas State Board of Nursing who suffer from impairments;
- (2) Promote public health and safety; and
- (3) Ensure the continued availability of the skills of highly trained nursing professionals for the benefit of the public.

History

Acts 2017, No. 325, § 1.

17-87-803. Definitions.

As used in this subchapter:

- (1) "Alternative to discipline program" means a plan approved by the Arkansas State Board of Nursing for intervention, treatment, and rehabilitation of an impaired nurse;
- (2) "Impairment" means the inability or significant potential for inability to practice with reasonable safety and skill as a result of a diagnosed substance use disorder or any diagnosed mental or physical health condition;
- (3) "Participant" means an applicant or licensee who:
 - (A) Self reports an impairment to the board;
 - (B) Is referred to the alternative to discipline program by the board; or
 - (C) Signs an initial agreement with the program coordinator to oversee the impaired nurse; and

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(4) "Rehabilitation" means the process whereby an impaired nurse advances in an alternative to discipline program to an optimal level of competence to practice nursing without endangering the public.

History

Acts 2017, No. 325, § 1.

17-87-804. Alternative to Discipline Program-Program coordinator duties-Board review.

(a) The Arkansas State Board of Nursing shall create an alternative to discipline program which shall:

(1) Serve as a diversion program to which the board may refer licensees when appropriate in lieu of or in addition to other disciplinary action; and

(2) Be a source of referral for nurses who, on a strictly voluntary basis, desire to avail themselves of its services.

(b) The board may perform the following duties and powers while operating the alternative to discipline program:

(1) Approve addiction evaluators and treatment programs available through the alternative to discipline program;

(2) Contract with providers of treatment programs;

(3) Receive and evaluate reports of suspected impairment, regardless of the source of the report;

(4) Intervene in cases of verified impairment;

(5) Refer impaired nurses to the program coordinator of the alternative to discipline program or another treatment program, or both;

(6) Monitor the treatment and rehabilitation of impaired nurses and the post-treatment of impaired nurses who are rehabilitated; and

(7) Perform other activities deemed necessary to accomplish the purposes of this subchapter.

(c) (1) The board shall employ a program coordinator to organize and administer the alternative to discipline program.

(2) The program coordinator shall:

(A) Review and evaluate nurses who request participation in or are recommended for the alternative to discipline program;

(B) Review and designate treatment facilities and services to which nurses in the program may be referred;

(C) Receipt and review of information relating to the participation of nurses in the program;

(D) Preparation of reports for the board; and

(E) Other duties as deemed necessary by the board.

(3) (A) The board shall review the activities of the program coordinator.

(B) As part of this evaluation, the board may review files of all participants in the alternative to discipline program.

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(C) The board shall also resolve complaints voiced regarding the alternative to discipline program.

History

Acts 2017, No. 325, § 1.

17-87-805. Reporting procedure.

The Arkansas State Board of Nursing shall develop rules and procedures for:

(1) Reporting to the board:

(A) The names and results of any contact or investigation regarding an impaired nurse who is believed to be an imminent danger to the public or to himself or herself;

(B) An impaired nurse who:

(i) Fails or refuses to:

(a) Cooperate with the program coordinator; or

(b) Submit to treatment;

(ii) Exhibits professional incompetence; or

(iii) Does not have alleviation through treatment for his or her impairment; and

(C) A participant of the alternative to discipline program resuming the practice of nursing;

(2) Informing each participant of the alternative to discipline program regarding the program requirements, program procedures, responsibilities of the participant, and consequences of noncompliance; and

(3) Performing other activities as necessary to implement this subchapter.

History

Acts 2017, No. 325, § 1.

17-87-806. Program requirements.

(a) (1) Eligibility to participate in the alternative to discipline program is at the sole discretion of the Arkansas State Board of Nursing.

(2) A person is not entitled to participate in the alternative to discipline program.

(b) To establish eligibility, a nurse shall:

(1) Have a license issued or an application for licensure in the State of Arkansas;

(2) Acknowledge that the nurse has a drug or alcohol abuse problem or addiction; and

(3) Meet any other requirements determined by the board.

(c) A participant in the alternative to discipline program shall:

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(1) Agree to:

(A) Complete an evaluation conducted by a board-approved evaluator in order to outline the treatment required;

(B) Place his or her nursing license on inactive status until a treatment provider determines that the participant can safely practice nursing;

(C) Comply with:

(i) The written terms of the agreement to participate in the alternative to discipline program; and

(ii) The terms and conditions of any contract between the board and participant;

(D) Pay all costs for treatment and monitoring;

(E) Select from board-approved evaluators, treatment facilities, counselors, and laboratory facilities before utilization of services;

(F) Admit in an affidavit to violations of § 17-87-101 et seq.; and

(2) Perform other activities as determined necessary by the board.

History

Acts 2017, No. 325, § 1.

17-87-807. Failure to comply.

(a) Participation in the alternative to discipline program under this subchapter is not a defense to any disciplinary action that may be taken by the Arkansas State Board of Nursing.

(b) This subchapter does not preclude the board from commencing disciplinary action against a nurse who is terminated from or fails to comply with the alternative to discipline program.

History

Acts 2017, No. 325, § 1.

17-87-808. Liability.

(a) A person acting on behalf of the Arkansas State Board of Nursing in the alternative to discipline program under this section is considered an officer or employee of the State of Arkansas for purposes of:

(1) Immunity from civil liability under § 19-10-301 et seq.; and

(2) Payment of actual damages on behalf of state officers or employees under § 21-9-201 et seq.

(b) (1) Except as provided in subdivision (b)(3) of this section, all participant records shall be confidential and shall not be subject to public inspection except under an order of a court of competent jurisdiction.

(2) However, the records may be introduced as evidence in any relevant proceedings before the board and shall be produced upon board request.

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(3) The records regarding an impaired nurse or a participant of the alternative to discipline program shall be available to:

- (A) The board;
- (B) The staff of the board;
- (C) An employer;
- (D) A treating healthcare provider;
- (E) Nursing education programs; and
- (F) Other states' nursing boards.

History

Acts 2017, No. 325, § 1.