

Arkansas Dietetics Licensing Board**Rules****Table of Contents**

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SECTION I. PROMULGATION

Pursuant to Ark. Code Ann. 17-83-101, *et seq.* specifically §17-83-203, “Dietetics Practice Act,” the Arkansas Dietetics Licensing Board (“Board”) hereby establishes and promulgates the following rules. These rules and all future amendments are made in accordance with the Arkansas Administrative Procedure Act, Ark. Code Ann. §25-15-201, *et seq.*

SECTION II. PURPOSE

It is the purpose of the Dietetics Practice Act (“Act”) to protect the health, safety, and welfare of the public by providing for the licensing and regulations of persons engaged in the practice of dietetics. Nothing in the Act prevents the furnishing of general nutritional information on food, food materials, or dietary supplements, or the explanation to customers about foods or food products in connection with the sale, marketing and distribution of those products.

SECTION III. INFORMATION FOR PUBLIC GUIDANCE

The Board employs persons holding certain responsibilities for handling Freedom of Information Act (“FOIA”) requests, licensing questions, and complaints against licensees so that the public may obtain information about the Board or make submissions or requests. The names, mailing addresses, telephone numbers, and electronic addresses can be obtained from the Board’s office or website.

The Board has a list of official forms used by the Board and a list of all formal, written statements of policy and written interpretative memoranda, and orders, decisions and opinions resulting from adjudications, which may be obtained from the Board’s office or website.

SECTION IV. GENERAL ORGANIZATION

- A. The Board shall consist of five (5) persons, all of whom are Arkansas residents, with the following qualifications: three (3) Board members who are Licensed Dietitians; two (2) Board members who are representatives of the public at large including:
 - 1. One (1) member who is not actively engaged in or retired from the field of Dietetics, to represent the consumers; and
 - 2. One (1) member who is sixty (60) years of age or older, who is not actively engaged in or retired from the field of Dietetics, to represent the elderly.

- B. The members of the Board shall be appointed by the Governor, with the confirmation of the Senate and shall serve terms of five (5) years.
- C. The Governor shall consult the Board of Directors of the Arkansas Academy of Nutrition and Dietetics before appointing the three (3) Board members who are licensed dietitians. Each of these Board members shall have been practicing dietitians for at least five (5) years preceding their appointment.
- D. Members of the Board may be removed by the Governor for cause. In case of death, resignation, or removal, the vacancy of the unexpired terms shall be filled by the Governor in the same manner as other appointments. A person chosen to fill vacancy shall be appointed only for the unexpired term of the Board member replaced. No member shall serve more than two (2) consecutive terms.
- E. A quorum of the Board shall consist of four (4) members.
- F. Meetings:
 - 1. At least two (2) regular meetings of the Board shall be held each calendar year, and at the first regular meeting every two (2) years, the Board shall elect a chairperson and vice-chairperson.
 - 2. Special called meetings may be held at the discretion of the chairperson or at the written request of any three (3) members of the Board.
 - 3. Reasonable notice of all meetings shall be given in the manner prescribed by the laws of this State.

SECTION V. DEFINITIONS

The following terms and phrases apply to all rules promulgated by the Board, unless a specific paragraph in the Act defines or uses the word or term in a different manner.

- A. “Academy” means the Academy of Nutrition and Dietetics.
- B. “Commission on Dietetic Registration (“CDR”)” means the Commission on Dietetic Registration that is a national certifying agency for voluntary professional credentialing in dietetics and a member of the Institute for Credentialing Excellence.
- C. “Degree” means a degree received from a United States college or university that was regionally accredited at the time the degree was conferred.

- D. “Dietetics Practice” means the integration and application of the principles derived from the sciences of nutrition, biochemistry, food, physiology, management, and behavioral and social sciences to achieve and maintain people’s health through the provision of nutrition care services.
- E. “Dietitian” means one engaged in dietetics practice.
- F. “Examination” means the examination administered by the CDR.
- G. “Institute for Credentialing Excellence” means the national organization that establishes national standards for certifying bodies that attest to the competence of individuals who participate in the health care delivery system, grants recognition to certifying bodies that voluntarily apply and meet the established standards, and monitors the adherence to those standards by the certifying bodies that it has recognized.
- H. “Licensed Dietitian (“LD”)” means a person licensed under this Act.
- I. “Nutrition Care Services” means:
1. Assessing the nutritional needs of individuals and groups of humans and determining resources and constraints in the practice setting;
 2. Establishing priorities, goals, and objectives that meet nutritional needs of humans and are consistent with available resources and constraints;
 3. Providing nutrition counseling to humans in health and disease;
 4. Developing, implementing, and managing nutrition care of, and food service systems for, humans; and
 5. Evaluating, making changes in, and maintaining appropriate standards for quality in food and nutrition care services for humans.
- J. “Provisional Licensed Dietitian (“PLD”)” means a person provisionally licensed under this Act.
- K. “Registered Dietitian” means a person registered by the CDR.

SECTION VI. PROHIBITIONS

No individual shall practice or offer to practice dietetics within the meaning of this Act unless he/she is duly licensed or is a student under the provisions of this Act.

SECTION VII. QUALIFICATIONS FOR ISSUANCE OF LICENSE

A. Pre-licensure criminal background check

1. Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.
2. The individual must obtain the pre-licensure criminal background check petition form from the Board.
3. The Board will respond with a decision in writing to a completed petition within a reasonable time.
4. The Board's response will state the reason(s) for the decision.
5. All decisions of the Board in response to the petition will be determined by the information provided by the individual.
6. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
7. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.

B. The Board may issue a license as a Licensed Dietitian ("LD") to an applicant who qualifies as follows:

1. The applicant files an application and has:
 - a. Received a baccalaureate or post-baccalaureate degree from a regionally accredited United States college or university with a program in human nutrition, food and nutrition, dietetics, or food systems management. Applicants who have obtained their education outside of the United States and its territories must have their academic degree or degrees validated as equivalent to the baccalaureate or post-baccalaureate degree conferred by a regionally accredited college or university in the United States;
 - b. Completed a planned, continuous pre-professional experience component in dietetic practice of not fewer than nine hundred (900) hours under the supervision of a registered dietitian or licensed dietitian; and
 - c. Passed an examination as defined by the board; or

2. The applicant files an application and provides evidence of current registration as a registered dietitian by the CDR.
- C. Applications shall be typewritten or printed in ink, signed by the applicant and accompanied by the appropriate fee and by such evidence, statements, or documents as specified or required by the Board. All applications, statements, and documents submitted shall become the property of the Board.
- D. The Board adopts the passing score on the examination as the passing score required by the CDR.
- E. Licensure for Military Uniformed Service Members and Spouses
1. As used in this subsection:
 - a. “automatic licensure” means the granting of occupational licensure without an individual’s having met occupational licensure requirements provided under Title 17 of the Arkansas Code or by these Rules.
 - b. “~~returning military veteran~~ uniformed service veteran” means a former member of the United States Armed Forces Uniformed Services ~~who was~~ discharged ~~from active duty~~ under circumstances other than dishonorable.
 2. The Board shall grant automatic licensure to an individual who ~~holds a substantially equivalent license in another U.S. jurisdiction~~ is the holder in good standing of a license with a similar scope of practice issued by another state, territory, or district of the U.S. or is currently registered by the CDR as a registered dietitian and is:
 - a. ~~An active duty military~~ A uniformed service member stationed in the State of Arkansas;
 - b. ~~A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty~~ A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or
 - c. The spouse of: a person under 2 (a) or (b) above.
 1. A person under E.2.a. or b. above;
 2. A uniformed service member who is assigned a tour of duty that excludes the uniformed service member’s spouse from accompanying the uniformed service member and the spouse relocates to this state; or

3. A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.
3. The Board shall grant such automatic licensure upon receipt of all the below:
 - a. Payment of the initial licensure fee;
 - b. Evidence that the individual holds a substantially equivalent license in another state; and
 - c. Evidence that the applicant is a qualified applicant under Section E.2 above.
4. The expiration date of a license for a deployed uniform service member or spouse will be extended for one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.
5. A full exemption from continuing education requirements will be allowed for a deployed uniform service member or spouse until one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.

F. Waiver request for disqualifying criminal offense

1. If an individual has been convicted of an offense listed in A.C.A. § 17-~~23~~-102(a) or (c), except those permanently disqualifying offenses found in subsection (e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:
 - a. An affected applicant for a license; or
 - b. An individual holding a license subject to revocation.
2. The Board may grant a waiver upon consideration of the following, without limitation:
 - a. The age at which the offense was committed;
 - b. The circumstances surrounding the offense;
 - c. The length of time since the offense was committed;
 - d. Subsequent work history since the offense was committed;
 - e. Employment references since the offense was committed;
 - f. Character references since the offense was committed;
 - g. Relevance of the offense to the occupational license; and

h. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.

3. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
4. The Board will respond with a decision in writing and will state the reasons for the decision.
5. An appeal of a determination under this section will be subject to the Administrative Procedures Act §25-15-201 *et seq.*

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

SECTION VIII. PROVISIONAL LICENSES

A Provisional License shall permit the holder to practice only under the direct supervision of a dietitian licensed in this State.

- A. The Board may issue a Provisional License to any dietitian who meets the following requirements:
 1. The applicant has filed an application with the Board, and
 2. Submitted evidence of successful completion of the education requirements in Section VII.
- B. A Provisional License shall expire eighteen (18) months from the date of issuance.
- C. A Provisional License may be renewed upon submission to the Board of satisfactory explanation for the applicant’s failure to become licensed within the original eighteen (18) month period. A Provisional License may only be renewed one time.

SECTION IX. RECIPROCITY

- A. The Board shall provide reciprocity for licensed dietitians from other states, provided that the standards in that state are not less than those provided for in Section VII.
- B. Applicants shall provide the Board with the following:

1. A current copy of that state's proposed (if any) and adopted rules/regulations governing its operations and application and licensing procedures;
 2. A copy of the legal authority (law, act, code, section, or otherwise) for the license including any proposed and final amendments;
 3. Information regarding all disciplinary actions relating to each applicant from that state's licensing authority;
 4. The names, addresses, and phone numbers of the licensing authority's chairperson and/or executive administrator;
 5. A copy of the license or certificate for which the reciprocal licensure is requested; and
 6. Any other information deemed necessary by the Board or by its legal counsel.
- C. All application materials shall be completed and application and license fees shall be paid by the applicant. All application materials become the property of the Board.
- D. The Board may contact the issuing authority to verify the applicant's status with the agency at the time of application.

SECTION X. RENEWAL OF LICENSES

- A. A licensee must renew their license annually and is responsible for renewing before the expiration date.
1. All licenses issued as of January 1, 2021 will have a renewal date of December 1 of each year.
 2. All licenses issued after January 1, 2021 will have a renewal date of one (1) year from the date of issuance.
- B. Licensees applying for renewal shall:
1. Submit a completed renewal application;
 2. Renewal fee; and
 3. Documentation showing completion of at least twelve (12) clock hours per renewal period of continuing education. All continuing education hours must be in compliance with continuing professional education activities approved by CDR or be volunteer services provided under the Arkansas Volunteer Healthcare Act.
- C. Continuing Education Extension Request

1. The one (1) year completion period for continuing education requirements may be extended on an individual basis if the Board determines a licensee's circumstances prevented him/her from timely completing the requirement.
 2. The request must be in writing with adequate documentation of the circumstances that prevented the licensee from completing the requirement.
 3. The request must be submitted at least twenty (20) days prior to the expiration date of the license.
 4. If the Board grants an extension, the time for completion will not exceed ninety (90) days past the expiration date of the license.
 5. All hours obtained during the extension period will only be applied towards the twelve (12) hours required for the renewal period in which the extension was requested and not towards the next renewal period's twelve (12) hours requirement.
- D. The Board shall mail a notice for renewal of a license to each person sixty (60) days prior to the renewal date.
1. The renewal notice shall be mailed to the most recent address of the person as it appears on the record of the Board.
 2. The renewal notice shall include:
 - a. The expiration date of the license;
 - b. The amount of the renewal fee due; and
 - c. The license renewal form.
- E. The licensee shall complete the renewal form and return it to the Board, accompanied by the required renewal fee, within no more than sixty (60) days after the renewal notice was mailed by the Board.
- F. Late Renewal Requirements
1. If a licensee fails to renew his/her license within the sixty (60) day period, the license shall lapse the last day of the month of the renewal date.
 2. If the renewal license has expired for no more than ninety (90) days, the licensee may renew the license by paying the Board the required renewal fee and a penalty in an amount equal to one-half (1/2) of the renewal fee.

3. If the renewal license has expired for more than ninety (90) days but less than one (1) year, the licensee may renew the license by paying the Board the required renewal fee and a penalty in an amount equal to the renewal fee.
4. If a license has been expired one (1) year or more, the license shall not be renewed, but a new license may be obtained by applying to the Board as a new licensee.
5. If a license has expired, before renewal a licensee must submit to the Board an attestation that the licensee has not practiced in dietetics since the day that the license lapsed and that the licensee will not practice dietetics until the license is approved for renewal by the Board.

G. Expiration of License

1. A person whose license has expired may not use the title or represent or imply that he/she has the title of “licensed dietitian” or “provisional licensed dietitian” or use the letters “LD” or “PLD” and may not use any facsimile of those titles in any manner.
2. A person whose license has expired must return to the Board his/her license certificate and license identification card within thirty (30) days of notification by the Board.

SECTION XI. FEES

The Board shall establish, charge, and collect fees as follows:

- A. Application and license fee for Licensed Dietitian (LD), including those seeking licensure through reciprocity, shall be \$110.
- B. Annual LD license renewal fee shall be \$50.
- C. Application and licensing fee for Provisional Licensed Dietitian (PLD) shall be \$150.
- D. One time eighteen (18) month renewal fee for PLD shall be \$75.
- E. Duplicate or replacement of a lost or destroyed license (LD/PLD) shall be \$25.

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

- A. Is receiving assistance through the Arkansas Medicaid Program; the Supplemental Nutrition Assistance Program; the Special Supplemental Nutrition

Program for Women, Infants, and Children; the Temporary Assistance for Needy Families Program; or the Lifeline Assistance Program;

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

SECTION XII. STANDARDS OF PROFESSIONAL RESPONSIBILITY

The Board adopts the most current CDR Code of Ethics for all persons holding an LD or PLD license. A copy of the code is available from the Board's office or the CDR website.

SECTION XIII. LICENSE ISSUANCE AND RENEWAL DENIAL

- A. The Board may refuse to issue or renew a license, or may revoke or suspend a license for any of the following, but is not limited to:
 - 1. Violation of a provision of the Dietetics Practice Act or the rules adopted by the Board;
 - 2. Engaging in unprofessional conduct or gross incompetence as defined by the rules of the Board or violating standards of professional responsibility adopted and published by the Board; or
 - 3. Conviction of a felony listed under §17-2-102.
- B. The Board may deny approval of an application from an applicant who is either licensed by another state or Registered Dietitian, if the Board has determined that the applicant may be:
 - 1. In violation of that state's Act or rules of the licensing authority, if applicable;
 - 2. In violation of a provision of the Dietetics Practice Act or the rules adopted by the Board;
 - 3. Engaging in unprofessional conduct or gross incompetence as defined by the rules of the Board or violating standards of professional responsibility adopted and published by the Board; or
 - 4. Convicted of a felony listed under §17-2-102.

- C. If a preliminary determination is made that the application should be denied, the Board will inform the applicant of the opportunity for a hearing on the application.
- D. The grounds or basis for the proposed denial of a license will be set forth in writing by the Board. Any hearing on the denial of a license will be conducted in accordance with Ark. Code Ann. §§ 25-15-208 and 25-15-213, and unless otherwise provided by law, the applicant has the burden of establishing entitlement to the license.
- E.

SECTION XIV. DISCIPLINARY PROCEDURES

A. Complaint

1. The Board is authorized to receive complaints against licensees or applicants from any person. Signed complaints must be submitted in writing to the Board's office. A complaint form may be obtained from the Board's office.
2. The Board may on its own motion, in the absence of a written complaint, conduct an investigation of a suspected violation if reasonable cause exists to believe a violation has occurred.

B. Investigation

1. The Board shall investigate a complaint if the complaint states prima facie violations of the Dietetics Practice Act or Board rules. The Board Chairman will appoint one or more board members to investigate the complaint.
2. A copy of the complaint will be sent certified mail to the party complained against. The party complained against shall submit a written response to the complaint within a reasonable time as provided by the Board's instructions.
3. The Board investigator(s) will review the response to the complaint. Further investigation will be conducted if deemed appropriate.
4. Upon completion of the investigation and upon the recommendation of the Board investigator(s), the Board will determine whether to conduct a hearing, dismiss the complaint, or take other appropriate action. All interested parties will be notified of the Board's instruction.
5. When appropriate, informal hearing procedures may be used to attempt to resolve complaints in lieu of an administrative hearing.

C. Suspension, Revocation, or Other Sanctions

1. Prior to the entry of a final order to suspend, revoke, or to impose other sanctions upon a licensee, the agency will serve the licensee a notice of hearing in the manner set out in Ark. Code Ann. § 25-15-208 and Section XIV.
2. The Board has the burden of proving the alleged facts and violations of law stated in the notice.

SECTION XV. ADMINISTRATIVE HEARING

- A. Scope of this Section - This section applies in all administrative adjudications conducted by the Board. This rule describes the process by which the Board formulates orders (for example, an order revoking a license to practice, or imposing civil penalties).
- B. Presiding Officer - The Board shall preside at the hearing or may designate one or more members of the Board or one or more examiners, referees, or hearing officers to preside at a hearing.
- C. Appearances
 1. Any party appearing in any agency proceeding has the right, at his or her own expense, to be represented by counsel. Alternatively, the respondent may appear on his or her own behalf.
 2. Any attorney representing a party to an adjudicatory proceeding must file notice of appearance as soon as possible.
 3. Service on counsel of record is the equivalent of service on the party represented.
 4. On written motion served on the party represented and all other parties of record, the presiding officer may grant counsel of record leave to withdraw for good cause shown.
- D. Consolidation - If there are separate matters that involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.
- E. Notice to Interested Parties - If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of persons who are not parties, the presiding officer may enter an order requiring that an

absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.

F. Service of Papers - Unless the presiding officer otherwise orders, every pleading and every other paper filed for the proceeding, except applications for witness subpoenas and the subpoenas, shall be served on each party or the party's representative at the last address of record.

G. Initiation & Notice of Hearing

1. An administrative adjudication is initiated when the agency issues a notice of hearing.
2. The notice of hearing will be sent to the respondent by U.S. Mail, return receipt requested, delivery restricted to the named recipient or his agent. Notice shall be sufficient when it is so mailed to the respondent's latest address on file with the agency.
3. Notice will be mailed at least twenty (20) days before the scheduled hearing.
4. The notice will include:
 - a. Statement of the time, place, and nature of the hearing;
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held; and
 - c. A short and plain statement of the matters of fact and law asserted.

H. Motions – All requests for relief will be by motion. Motions must be in writing or made on the record during a hearing. A motion must fully state the action requested and the grounds relied upon. The original written motion will be filed with the agency. When time allows, the other parties may, within seven (7) days of the service of the written motion, file a response in opposition. The presiding officer may conduct such proceedings and enter such orders as are deemed necessary to address issues raised by the motion. However, a presiding officer, other than the Board will not enter a dispositive order unless expressly authorized in writing to do so.

I. Answer – A respondent may file an answer to the notice of hearing.

J. Information Provided upon Request

1. Upon written request, the Board will provide the information designated in Ark. Code Ann. § 25-15-208(a)(3).

2. Such requests should be received by the Board at least 10 days before the scheduled hearing.

K. Continuances

1. The Board may grant a continuance of hearing for good cause shown. Requests for continuances will be made in writing. The request must state the grounds to be considered and be made as soon as practicable and, except in cases of emergencies, no later than five (5) days prior to the date noticed for the hearing.

In determining whether to grant a continuance, the Board may consider:

- a. Prior continuances;
 - b. The interests of all parties;
 - c. The likelihood of informal settlements;
 - d. The existence of an emergency;
 - e. Any objection;
 - f. Any applicable time requirement;
 - g. The existence of a conflict of the schedules of counsel, parties, or witnesses;
 - h. The time limits of the request; and
 - i. Other relevant factors.
2. The Board may require documentation of any grounds for continuance.

L. Hearing Procedures

1. The presiding officer presides at the hearing and may rule on motions, require briefs, and issue such orders as will ensure the orderly conduct of the proceedings; provided, however, any presiding officer other than the Board shall not enter a dispositive order or proposed decision unless expressly authorized in writing to do so.
2. All objections must be made in a timely manner and stated on the record.
3. Parties have the right to participate or to be represented by counsel in all hearings or pre-hearing conferences related to their case.
4. Subject to terms and conditions prescribed by the Administrative Procedure Act, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses as necessary for a full and true disclosure of the facts, present

evidence in rebuttal, and, upon request by the agency, may submit briefs and engage in oral argument.

5. The presiding officer is charged with maintaining the decorum of the hearing and may refuse to admit, or may expel, anyone whose conduct is disorderly.

M. Order of Proceedings

The presiding officer will conduct the hearing in the following manner:

1. The presiding officer will give an opening statement, briefly describing the nature of the proceedings.
2. The parties will be given the opportunity to present opening statements.
3. The parties will be allowed to present their cases in the sequence determined by the presiding officer.
4. Each witness must be sworn or affirmed by the presiding officer and be subject to examination and cross-examination as well as questioning by the Board. The presiding officer may limit questioning in a manner consistent with the law.
5. When all parties and witnesses have been heard, parties will be given the opportunity to present final arguments.

N. Evidence

1. The presiding officer shall rule on the admissibility of evidence and may, when appropriate, take official notice of facts in accordance with all applicable requirements of law.
2. Stipulation of facts is encouraged. The agency may make a decision based on stipulated facts.
3. Evidence in the proceeding must be confined to the issues set forth in the hearing notice, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence outside the scope of the notice, over the objection of a party who did not have actual notice of those issues, that party, upon timely request, may receive a continuance sufficient to prepare for the additional issue and to permit amendment of pleadings.
4. A party seeking admission of an exhibit must provide ten (10) copies of each exhibit at the hearing. The presiding officer must provide the opposing parties

with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence must be appropriately marked and be made part of the record.

5. Any party may object to specific evidence or may request limits on the scope of the examination or cross-examination. A brief statement of the grounds upon which it is based shall accompany such an objection. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve the ruling until the written decision.
 6. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.
 7. Irrelevant, immaterial, and unduly repetitive evidence will be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men and women in the conduct of their affairs.
 8. The finder of fact may base its findings of fact upon reasonable inferences derived from other evidence received.
- O. Default – If a party fails to appear or participate in an administrative adjudication after proper service of notice, the agency may proceed with the hearing and render a decision in the absence of the party.
- P. Recording the Proceedings – The Board will record the testimony heard at a hearing. Upon the filing of a petition for judicial review, the Board will provide a verbatim transcript of testimony taken before the agency.
- Q. Factors to be Considered in Imposing Sanctions – In addition to any other considerations permitted by the Dietetics Practice Act, if applicable, the Board in imposing any sanction may consider the following:

1. The nature and degree of the misconduct for which the licensee is being sanctioned.
2. The seriousness and circumstances surrounding this misconduct.
3. The loss or damage to clients or others.
4. The assurance that those who seek similar professional services in the future will be protected from the type of misconduct found.
5. The profit to the licensee.
6. The avoidance of repetition.
7. Whether the conduct was deliberate, intentional, or negligent.
8. The deterrent effect on others.
9. The conduct of the individual during the course of the disciplinary proceeding.
10. The professional's prior disciplinary record, including warnings.
11. Matters offered by the professional in mitigation or extenuation, except that a claim of disability or impairment resulting from the use of alcohol or drugs may not be considered unless the professional demonstrates that he or she is successfully pursuing in good faith a program of recovery.

R. Final Order

1. The Board will serve on the respondent a written order that reflects the action taken by the Board. The order will include a recitation of facts found based on testimony and other evidence presented and reasonable inferences derived from the evidence pertinent to the issues of the case. It will also state conclusions of law and directives or other disposition entered against or in favor of the respondent.
2. The order will be served personally or by mail on the respondent. If counsel represents respondent, service of the order on respondent's counsel shall be deemed service on the respondent.

SECTION XVI. DECLARATORY ORDERS

A. Purpose and Use of Declaratory Orders

1. A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the Board has authority.
 2. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances.
 3. A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from the Board.
 4. A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.
- B. The Petition – The process to obtain a declaratory order is begun by filing with the Board's office a petition that provides the following information:
1. The name, address, telephone number, and facsimile number of the petitioner;
 2. The name, address, telephone number, and facsimile number of the attorney of the petitioner;
 3. The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory order is sought;
 4. A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue on which petitioner seeks a declaratory order;
 5. The signature of the petitioner or petitioner's attorney;
 6. The date; and
 7. Request for a hearing, if desired.
- C. Board Disposition
1. The Board may hold a hearing to consider a petition for declaratory order. If a hearing is held, it shall be conducted in accordance with Ark. Code Ann. § 25-15-208 and § 25-15-213, and the Board's rules for adjudicatory hearings.
 2. The Board may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within ninety (90) days of the

filing of the petition, the Board will render a final order denying the petition or issuing a declaratory order.

Section XVII. THE PRACTICE OF TELEMEDICINE

A. Definitions

1. “Distant site” means the location of the healthcare professional delivering services through telemedicine at the time the services are provided. Ark. Code Ann. §17-80-402(1).
2. “Originating site” means a site at which a patient is located at the time healthcare services are provided to him or her by means of telemedicine, including the home of a patient. Ark. Code Ann. §17-80-402(~~23~~).
3. “Remote patient monitoring” means the use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a healthcare professional at a distant site for use in the treatment and management of medical conditions that require frequent monitoring. Ark. Code Ann. §17-80-402(5).
4. “Store-and-forward technology” means the asynchronous transmission of a patient’s medical information from a healthcare professional at an originating site to a healthcare professional at a distant site. Ark. Code Ann. § 17-80-402(6).
5. “Telemedicine” means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient. Telemedicine includes store-and-forward technology and remote patient monitoring. Ark. Code Ann. § 17-80-402(7).

B. Establishing a Licensed Dietitian/Client Relationship – A licensed dietitian/client relationship must be established in accordance with Ark. Code Ann. §§ 17-80-402 & 403 and Section VII before the delivery of services via telemedicine. A client’s completing a nutrition history online and forwarding it to a licensed dietitian is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology. A licensed dietitian exhibits gross negligence if he or she provides and/or recommends any form of

treatment via telemedicine without first establishing a proper licensed dietitian/client relationship.

C. Minimum Requirements for Licensed Dietitian/Client Relationship – For purposes of this regulation, a proper licensed dietitian/client relationship, at a minimum requires that:

1. The licensed dietitian performs an “in person” nutrition history of the client adequate to establish a diagnosis and develop a treatment plan, OR
2. The licensed dietitian performs a face to face nutrition history using real time audio and visual telemedicine technology that provides information at least equal to such information as would have been obtained by an in-person nutrition history, OR
3. The licensed dietitian knows the client and the client’s general nutrition issues through a previously established professional relationship; AND
4. Appropriate follow-up be provided or arranged, when necessary.

D. When a Licensed Dietitian/Client Relationship is Deemed to Exist – For the purposes of this regulation, a proper licensed dietitian/client relationship is deemed to exist in the following situations:

1. When treatment is provided in consultation with, or upon referral by, another provider or treatment team who has an ongoing relationship with the client, and who has agreed to supervise the client’s treatment, including follow up care.
2. On-call or cross-coverage situations arranged by the client’s treating provider or treatment team.

E. Exceptions – Recognizing a licensed dietitian’s duty to adhere to the applicable standard of care and to comply with mandatory reporting laws, the following situations are excluded from the requirement of this regulation by Ark. Code Ann. § 17-80-403(a)(2):

1. Emergency situations where the life or health of the client is in danger or imminent danger.
2. Simply providing information of a generic nature, not meant to be specific to an individual client.

F. Professional Relationship Exceptions – Under Ark. Code Ann. § 17-80-403(c), “Professional relationship” does not include a relationship between a licensed dietitian and a client established only by the following:

1. An internet questionnaire;
2. An email message;
3. Patient-generated medical history;
- ~~4. Audio-only communication, including without limitation interactive audio;~~
5. Text messaging;
6. A facsimile machine; or
7. Any combination thereof.

G. Requirements for Services Provided VIA Telemedicine – The following requirements apply to all services provided by licensed dietitians using telemedicine.

1. The practice of dietetics via telemedicine shall be held to the same standards of care as traditional in-person encounters.
2. The licensed dietitian must obtain a detailed explanation of the client's medical diagnosis from the client or the client's treating provider or treatment team in order to individualize the nutrition interventions.
3. If a decision is made to provide treatment (medical nutrition therapy), the licensed dietitian must agree to accept responsibility for the(nutrition) care of the client.
4. If follow-up care is indicated, the licensed dietitian must agree to provide or arrange for such follow-up care.
5. The licensed dietitian must keep a documented treatment record, including, but not limited to nutrition history, interventions, and outcomes.
6. At the client's request, the licensed dietitian must make available to the client an electronic or hardcopy version of the client's treatment record documenting the encounter. Additionally, unless the client declines to consent, the licensed dietitian must forward a copy of the record of the encounter to the client's regular treating provider or treatment team if that provider or treatment team is not the same licensed dietitian delivering the service via telemedicine.
7. Services must be delivered in a transparent manner, including providing access to information identifying the licensed dietitian's licensure and other relevant certifications, as well as client financial responsibilities, in advance of the encounter.

8. If the client, at the recommendation of the licensed dietitian, needs to be seen in person, the licensed dietitian must arrange to see the client in person or direct the client to their regular treating provider or treatment team or other appropriate provider if the client does not have a treating provider or treatment team. Such recommendation shall be documented in the client's treatment record.
 9. Licensed dietitians who deliver services through telemedicine must establish protocols for referrals for emergency services.
- H. Scope of Practice – Licensed dietitians may practice dietetics via telemedicine within the definitions found in Section V.

- I. Confidentiality – Licensed dietitians who use technology to facilitate supervision, consultation, or other confidential meetings shall use appropriate precautions to protect the confidentiality of those communications. Precautions to protect confidentiality depend on the type of technology being used, and may include using passwords, firewalls, encryption, and antivirus software; using electronic service providers that rely on standards of security for data that are transmitted and stored; and ensuring a private setting when using their electronic devices.

State of Arkansas *As Engrossed: S1/19/21 S1/26/21*
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 78

By: Senators Hill, D. Wallace, T. Garner, Irvin, J. Hendren, J. English, Flippo
By: Representatives Lynch, Cozart, Brown, Evans

For An Act To Be Entitled

AN ACT TO ESTABLISH THE ARKANSAS OCCUPATIONAL
LICENSING OF UNIFORMED SERVICE MEMBERS, VETERANS, AND
SPOUSES ACT OF 2021; TO MODIFY THE AUTOMATIC
OCCUPATIONAL LICENSURE REQUIREMENTS FOR UNIFORMED
SERVICES MEMBERS, RETURNING UNIFORMED SERVICES
VETERANS, AND THEIR SPOUSES; TO DECLARE AN EMERGENCY;
AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH ARKANSAS OCCUPATIONAL
LICENSING OF UNIFORMED SERVICE MEMBERS,
VETERANS, AND SPOUSES ACT OF 2021; AND TO
DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-1-106 is repealed.

~~17-1-106. Automatic licensure for active duty service members,
returning military veterans, and spouses—Definitions.~~

~~(a) As used in this section:~~

~~(1) “Automatic licensure” means the granting of occupational
licensure without an individual’s having met occupational licensure
requirements provided under this title or by the rules of the occupational
licensing entity;~~

~~(2) “Occupational licensing entity” means an office, board,
commission, department, council, bureau, or other agency of state government~~



1 ~~having authority to license, certify, register, permit, or otherwise~~
2 ~~authorize an individual to engage in a particular occupation or profession;~~

3 ~~(3) "Occupational licensure" means a license, certificate,~~
4 ~~registration, permit, or other form of authorization required by law or rule~~
5 ~~that is required for an individual to engage in a particular occupation or~~
6 ~~profession; and~~

7 ~~(4) "Returning military veteran" means a former member of the~~
8 ~~United States Armed Forces who was discharged from active duty under~~
9 ~~circumstances other than dishonorable.~~

10 ~~(b)(1) An occupational licensing entity shall grant automatic~~
11 ~~licensure to engage in an occupation or profession to an individual who is~~
12 ~~the holder in good standing of a substantially equivalent occupational~~
13 ~~license issued by another state, territory, or district of the United States~~
14 ~~and is:~~

15 ~~(A) An active duty military service member stationed in~~
16 ~~the State of Arkansas;~~

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

19 ~~(C) The spouse of a person under subdivisions (b)(1)(A)~~
20 ~~and (b)(1)(B) of this section.~~

21 ~~(2) However, an occupational licensing entity shall be required~~
22 ~~to provide automatic licensure if the proposed rules are not approved as~~
23 ~~required under subdivision (d)(2) of this section.~~

24 ~~(c) An occupational licensing entity may submit proposed rules~~
25 ~~recommending an expedited process and procedure for occupational licensure~~
26 ~~instead of automatic licensure as provided under subsection (b) of this~~
27 ~~section to the Administrative Rules Subcommittee of the Legislative Council.~~

28 ~~(d) The Administrative Rules Subcommittee of the Legislative Council~~
29 ~~shall:~~

30 ~~(1) Review the proposed rules of an occupational licensing~~
31 ~~entity as submitted for public comment and at least thirty (30) days before~~
32 ~~the public comment period ends under the Arkansas Administrative Procedure~~
33 ~~Act, § 25-15-201 et seq.; and~~

34 ~~(2) Approve the proposed rules submitted under subsection (c) of~~
35 ~~this section based on:~~

36 ~~(A) A determination of whether the expedited process and~~

~~procedure provide the least restrictive means of accomplishing occupational licensure; and~~

~~(B) Any other criteria the Administrative Rules Subcommittee of the Legislative Council determines necessary to achieve the objectives of this section.~~

~~(c) The Administrative Rules Subcommittee of the Legislative Council may:~~

~~(1) Establish a subcommittee to assist in the duties assigned under this section;~~

~~(2) Assign information filed with the Administrative Rules Subcommittee of the Legislative Council under this section to one (1) or more subcommittees of the Legislative Council, including without limitation a subcommittee created under subdivision (c)(1) of this section; or~~

~~(3) Delegate its duties under this section to one (1) or more subcommittees of the Legislative Council, subject to final review and approval of the Administrative Rules Subcommittee of the Legislative Council.~~

~~(f) An occupational licensing entity shall:~~

~~(1) Submit proposed rules authorized under subsection (c) of this section to the Administrative Rules Subcommittee of the Legislative Council for review and approval before the proposed rules are promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and~~

~~(2) Provide to the House Committee on Aging, Children and Youth, Legislative and Military Affairs an annual report stating the number of automatic licenses and expedited occupational licenses granted under this section to:~~

~~(A) Active duty military service members stationed in the State of Arkansas;~~

~~(B) Returning military veterans applying within one (1) year of their discharge from active duty; or~~

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

SECTION 2. Arkansas Code Title 17, Chapter 1, is amended to add an additional chapter to read as follows:

Chapter 4 – Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021

1
2 17-4-101. Title.

3 This chapter shall be known and may be cited as the "Arkansas
4 Occupational Licensing of Uniformed Service Members, Veterans, and Spouses
5 Act of 2021".
6

7 17-4-102. Legislative findings and intent.

8 (a) The General Assembly finds that:

9 (1) Arkansas sets the bar as a national leader in addressing
10 employment barriers faced by uniformed service members, uniformed service
11 veterans, and their spouses in attaining occupational licensure;

12 (2) Arkansas is one (1) of only four (4) states to successfully
13 address eight (8) or more of the ten (10) issues affecting uniformed service
14 families identified by the United States Department of Defense;

15 (3) Of the United States Department of Defense's ten (10) issues
16 in fiscal year 2020, four (4) of the issues concern occupational licensure of
17 spouses of uniformed service members;

18 (4) Annually, fourteen and a half percent (14.5%) of spouses of
19 uniformed service members move across state lines as opposed to one and one-
20 tenth percent (1.1%) of civilians;

21 (5) States can continue to improve the attainment of
22 occupational licensure and to eliminate barriers impeding employment of
23 spouses of uniformed service members following a move across state lines;

24 (6) Acts 2019, No. 820, established provisions for the granting
25 of automatic occupational licensure or expedited occupational licensure to
26 active-duty service members, recently separated veterans, and their spouses
27 who hold occupational licensure in good standing in another jurisdiction; and

28 (7) Additional steps need to be taken to clarify, simplify, and
29 elevate the occupational licensure process for uniformed service members,
30 uniformed service veterans, and their spouses.

31 (b) It is the intent of the General Assembly to address occupational
32 licensure barriers that impede the launch and sustainability of civilian
33 occupational careers and employment faced by uniformed service members,
34 uniformed service veterans, and their spouses due to frequent uniformed
35 service assignment by:

36 (1) Providing:

1 (A) Automatic occupational licensure or expedited
2 occupational licensure to current license holders to expedite their entry
3 into the workforce of this state;

4 (B) Temporary or provisional licensure to initial
5 licensure candidates while expediting full licensure;

6 (C) Legislative oversight of rulemaking by occupational
7 licensing entities to ensure removal of occupational licensure barriers faced
8 by uniformed service members, uniformed service veterans, and their spouses;
9 and

10 (D) Guidance to assure effective rulemaking and clear
11 license application instructions to uniformed service members, uniformed
12 service veterans, and their spouses;

13 (2) Recognizing uniformed service education, training,
14 experience, and credentials of uniformed service members and uniformed
15 service veterans applying for initial occupational licensure; and

16 (3) Extending licensure expiration and any continuing education
17 required for occupational licensure renewal when a uniformed service member
18 is deployed.

19
20 17-4-103. Definitions.

21 As used in this chapter:

22 (1) "Automatic occupational licensure" means the granting of
23 occupational licensure without an individual's having met occupational
24 licensure requirements provided under this title or by the rules of the
25 relevant occupational licensing entity;

26 (2) "Occupational licensing entity" means an office, board,
27 commission, department, council, bureau, or other agency of state government
28 having authority to license, certify, register, permit, or otherwise
29 authorize an individual to engage in a particular occupation or profession,
30 not including occupations or professions within the judicial branch of
31 government or occupations or professions subject to the superintending
32 control of the Supreme Court;

33 (3) "Occupational licensure" means a license, certificate,
34 registration, permit, or other form of authorization required by law or rule
35 that is required for an individual to engage in a particular occupation or
36 profession;

1 (4) "Uniformed service member" means:

2 (A) An active or reserve component member of the United
3 States Air Force, United States Army, United States Coast Guard, United
4 States Marine Corps, United States Navy, United States Space Force, or
5 National Guard;

6 (B) An active component member of the National Oceanic and
7 Atmospheric Administration Commissioned Officer Corps; or

8 (C) An active or reserve component member of the United
9 States Commissioned Corps of the Public Health Service; and

10 (5) "Uniformed service veteran" means a former member of the
11 United States uniformed services discharged under conditions other than
12 dishonorable.

13
14 17-4-104. Applicability.

15 Unless otherwise stated in this chapter, this chapter applies to:

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

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

20 (3) The spouse of:

21 (A) A person listed in subdivision (1) or (2) of this
22 section;

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

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

29
30 17-4-105. Automatic occupational licensure.

31 An occupational licensing entity shall grant automatic occupational
32 licensure to engage in an occupation or profession to an individual who is:

33 (1) Listed in § 17-4-104; and

34 (2) The holder in good standing of occupational licensure with
35 similar scope of practice issued by another state, territory, or district of
36 the United States.

1
2 17-4-106. Expedited occupational licensure.

3 (a)(1) An occupational licensing entity may submit proposed rules
4 recommending an expedited process for the attainment of occupational
5 licensure instead of automatic occupational licensure as provided under § 17-
6 4-105 to the Administrative Rules Subcommittee of the Legislative Council.

7 (2) The proposed rules described in subdivision (a)(1) of this
8 section shall include temporary or provisional occupational licensure
9 provisions with a term of ninety (90) days or more.

10 (3) The occupational licensing entity shall provide automatic
11 occupational licensure if the proposed expedited occupational licensure rules
12 are not approved as required by § 17-4-109.

13 (b)(1) An occupational licensing entity shall expedite the process for
14 initial occupational licensure for an individual who is listed in § 17-4-104.

15 (2) An occupational licensing entity shall provide the applicant
16 under subdivision (b)(1) of this section with a temporary or provisional
17 license upon receipt of required documentation or the successful completion
18 of any examination required by the relevant occupational licensing entity to
19 enable the applicant to secure employment in his or her occupation or
20 profession.

21
22 17-4-107. Acceptance of uniformed service education, training,
23 experience, or service-issued credential.

24 An occupational licensing entity shall accept relevant and applicable
25 uniformed service education, training, or service-issued credential toward
26 occupational licensure qualifications or requirements when considering an
27 application for initial licensure of an individual who is:

28 (1) A uniformed service member; or

29 (2) A uniformed service veteran who makes an application within
30 one (1) year of his or her discharge from uniformed service.

31
32 17-4-108. Extension of license expiration and continuing education
33 requirements.

34 (a) An occupational licensing entity shall extend the expiration date
35 of an occupational licensure for a deployed uniformed service member or his
36 or her spouse for one hundred eighty (180) days following the date of the

1 uniformed service member's return from deployment.

2 (b)(1) An occupational licensing entity shall allow a full or partial
3 exemption from a continuing education requirement that is required as a
4 component of occupational licensure for an individual who is listed in
5 subsection (a) of this section until one hundred eighty (180) days following
6 the date of the uniformed service member's return from deployment.

7 (2) An occupational licensing entity that allows full or partial
8 exemption from continuing education requirements may require evidence of
9 completion of continuing education before granting a subsequent occupational
10 licensure or authorizing the renewal of an occupational licensure.

11
12 17-4-109. Legislative oversight of rules.

13 (a) The Administrative Rules Subcommittee of the Legislative Council
14 shall:

15 (1) Review the proposed rules of an occupational licensing
16 entity as submitted for public comment at least thirty (30) days before the
17 public comment period ends under the Arkansas Administrative Procedure Act, §
18 25-15-201 et seq.; and

19 (2) Approve the proposed rules submitted under § 17-4-106 based
20 on:

21 (A) A determination of whether the expedited process
22 provides the least restrictive means of attaining occupational licensure; and

23 (B) Any other criteria the Administrative Rules
24 Subcommittee of the Legislative Council determines necessary to achieve the
25 objectives of this section.

26 (b) The Administrative Rules Subcommittee of the Legislative Council
27 may:

28 (1) Establish a further subcommittee to assist in the duties
29 assigned to the Administrative Rules Subcommittee of the Legislative Council
30 under this section;

31 (2) Assign information filed with the Administrative Rules
32 Subcommittee of the Legislative Council under this section to one (1) or more
33 subcommittees of the Legislative Council, including without limitation a
34 subcommittee created under subdivision (b)(1) of this section; or

35 (3) Delegate the duties of the Administrative Rules Subcommittee
36 of the Legislative Council under this section to one (1) or more

1 subcommittees of the Legislative Council, which shall be subject to the final
2 review and approval of the Administrative Rules Subcommittee of the
3 Legislative Council.

4
5 17-4-110. Responsibilities of occupational licensing entities.

6 An occupational licensing entity shall:

7 (1) Submit proposed rules authorized under § 17-4-106 to the
8 Administrative Rules Subcommittee of the Legislative Council for review and
9 approval before the proposed rules are promulgated under the Arkansas
10 Administrative Procedure Act, § 25-15-201 et seq.;

11 (2) If the proposed rules are not approved as required under §
12 17-4-109, provide automatic occupational licensure to an individual listed in
13 § 17-4-104;

14 (3) Post prominently on the occupational licensing entity's
15 website a link entitled "Military Member Licensure" that directly leads to
16 information applicable to an individual listed in § 17-4-104; and

17 (4) Provide to the House Committee on Aging, Children and Youth,
18 Legislative and Military Affairs an annual report stating the number of
19 individuals granted automatic occupational licensure and expedited
20 occupational licensure under this chapter.

21
22 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
23 General Assembly of the State of Arkansas that current laws and
24 administrative rules regarding the issuance of occupational licenses,
25 certificates, and permits are barriers and create a hardship for uniformed
26 service members, uniformed service veterans, and their spouses; that
27 additional expedited processes, automatic licensure, and extended expiration
28 dates of occupational licenses, certificates, and permits is needed to ensure
29 that uniformed service members, uniformed service veterans, and their spouses
30 may practice their chosen occupation or profession in the State of Arkansas;
31 and that this act is immediately necessary to remove barriers and hardships
32 in obtaining occupational licenses, certificates, and permits for uniformed
33 service members, uniformed service veterans, and their spouses. Therefore, an
34 emergency is declared to exist, and this act being immediately necessary for
35 the preservation of the public peace, health, and safety shall become
36 effective on:

- 1 (1) The date of its approval by the Governor;
2 (2) If the bill is neither approved nor vetoed by the Governor,
3 the expiration of the period of time during which the Governor may veto the
4 bill; or
5 (3) If the bill is vetoed by the Governor and the veto is
6 overridden, the date the last house overrides the veto.

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8
9 */s/Hill*

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12 **APPROVED: 2/23/21**
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State of Arkansas

As Engrossed: S3/10/21

93rd General Assembly

A Bill

Regular Session, 2021

SENATE BILL 153

By: Senators Gilmore, *B. Ballinger, Beckham, Bledsoe, B. Davis, Flipppo, T. Garner, K. Hammer, Hester, B. Johnson, D. Sullivan, C. Tucker, D. Wallace*

By: Representatives Ray, *Beaty Jr., M. Berry, Boyd, Brooks, Brown, Furman, Haak, McCollum, Underwood, Wardlaw*

For An Act To Be Entitled

AN ACT TO CREATE THE WORKFORCE EXPANSION ACT OF 2021;
AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE WORKFORCE EXPANSION ACT OF
2021.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4, Chapter 25, Subchapter 1, is amended
to add an additional section to read as follows:

4-25-110. Fee waiver for certain individuals.

(a) Notwithstanding any law to the contrary, the initial filing fees, permit fees, and licensing fees associated with the formation of a business in this state shall be waived for applicants who meet the requirements in the Workforce Expansion Act of 2021, § 17-4-101 et seq.

(b) Appropriate state entities shall:

(1) Publish notice of the fee waiver on:

(A) The website maintained by the appropriate state entity; and

(B) Any relevant forms that an applicant is required to complete; and

(2) Promulgate any necessary rules to implement this section.



1 SECTION 2. Arkansas Code Title 17, is amended to add an additional
2 chapter to read as follows:

3 Chapter 4 – Workforce Expansion Act of 2021

4
5 17-4-101. Title.

6 This chapter shall be known and may be cited as the "Workforce
7 Expansion Act of 2021".

8
9 17-4-102. Legislative findings – Purpose.

10 (a) The General Assembly finds that:

11 (1) Entrepreneurs and workers must pay various fees in order to
12 work in a government-regulated profession or occupation or to start a small
13 business in Arkansas;

14 (2) Families trying to break the cycle of government dependency
15 should not have to pay the state to earn a living; and

16 (3) Arkansas should waive initial fees associated with
17 occupational and professional regulations and the formation of a business for
18 low-income individuals.

19 (b) It is the purpose of this chapter to increase access to
20 professional and occupational licenses that would otherwise be cost
21 prohibitive for certain individuals.

22
23 17-4-103. Definitions.

24 As used in this chapter:

25 (1) "License" means a license, certificate, registration,
26 permit, or other form of authorization required by law or rule that is
27 required for an individual to engage in a particular occupation or
28 profession; and

29 (2)(A) "Licensing entity" means an office, board, commission,
30 department, council, bureau, or other agency of state government having
31 authority to license, certify, register, permit, or otherwise authorize an
32 individual to engage in a particular occupation or profession.

33 (B) "Licensing entity" does not include a political
34 subdivision of the state or any other local or regional governmental entity,
35 including without limitation a city of the first class, a city of the second
36 class, an incorporated town, or a county.

1 17-4-104. Fee waiver.

2 (a) Notwithstanding any law to the contrary, a licensing entity shall
3 not require an initial fee for individuals who are seeking to receive a
4 license in this state if the applicant:

5 (1) Is receiving assistance through the Arkansas Medicaid
6 Program, the Supplemental Nutrition Assistance Program, the Special
7 Supplemental Nutrition Program for Women, Infants, and Children, the
8 Temporary Assistance for Needy Families Program, or the Lifeline Assistance
9 Program;

10 (2) Was approved for unemployment within the last twelve (12)
11 months; or

12 (3) Has an income that does not exceed two hundred percent
13 (200%) of the federal poverty income guidelines.

14 (b) The waiver of the initial fee does not include fees for:

15 (1) A criminal background check;

16 (2) An examination or a test; or

17 (3) A medical or drug test.

18 (c) The Department of Human Services and the Division of Workforce
19 Services shall collaborate with a licensing entity concerning verification of
20 eligibility for public benefits for applicants, which may include obtaining a
21 signed consent form from the applicant.

22
23 17-4-105. Licensing entity duties.

24 A licensing entity shall:

25 (1) Publish notice of the fee waiver on:

26 (A) The website maintained by the licensing entity; and

27 (B) Any relevant forms that an applicant is required to
28 complete; and

29 (2) Promulgate any necessary rules to implement this chapter.
30

31 SECTION 3. EFFECTIVE DATE.

32 SECTIONS 1 and 2 of this act shall be effective on and after January 1,
33 2022.
34

35 /s/Gilmore

36 APPROVED: 4/15/21

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1735

By: Representative Penzo
By: Senator Hester

For An Act To Be Entitled

AN ACT TO AUTHORIZE OCCUPATIONAL OR PROFESSIONAL
LICENSURE FOR CERTAIN INDIVIDUALS; AND FOR OTHER
PURPOSES.

Subtitle

TO AUTHORIZE OCCUPATIONAL OR PROFESSIONAL
LICENSURE FOR CERTAIN INDIVIDUALS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 17, Chapter 1, Subchapter 1, is amended
to add an additional section to read as follows:

17-1-109. Licensing of certain individuals – Definitions.

(a) As used in this section:

(1) "Occupational or professional license" means a license, certificate, registration, permit, or other form of authorization required by law or rule for an individual to engage in a particular occupation or profession; and

(2) "Occupational or professional licensing entity" means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession.

(b) An occupational or professional licensing entity shall grant an occupational or professional license under this section to an individual who fulfills the requirements to practice an occupation or profession in this



1 state and is a person who holds a Federal Form I-766 United States
2 Citizenship and Immigration Services-issued Employment Authorization
3 Document, known popularly as a "work permit".

4 (c) This section is a state law within the meaning of subsection (d)
5 of 8 U.S.C. § 1621, as existing on January 1, 2021.

6
7 SECTION 2. DO NOT CODIFY. Rules implementing this act.

8 (a) All occupational or professional licensing entities shall
9 promulgate rules necessary to implement this act.

10 (b)(1) When adopting the initial rules to implement this act, the
11 final rule shall be filed with the Secretary of State for adoption under §
12 25-15-204(f):

13 (A) On or before January 1, 2022; or

14 (B) If approval under § 10-3-309 has not occurred by
15 January 1, 2022, as soon as practicable after approval under § 10-3-309.

16 (2) An occupational or professional licensing entity shall file
17 the proposed rule with the Legislative Council under § 10-3-309(c)
18 sufficiently in advance of January 1, 2022, so that the Legislative Council
19 may consider the rule for approval before January 1, 2022.

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22 **APPROVED: 4/19/21**
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State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1796

By: Representative Cozart
By: Senator Hill

For An Act To Be Entitled

AN ACT TO AMEND OCCUPATIONAL CRIMINAL BACKGROUND
CHECKS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND OCCUPATIONAL CRIMINAL
BACKGROUND CHECKS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-3-102(b)(1), concerning licensing
restrictions based on criminal records, is amended to read as follows:

(b)(1) If an individual has been convicted of a crime listed in
subsection (a) or subsection (e) of this section, a licensing entity may
waive disqualification or revocation of a license based on the conviction if
a request for a waiver is made by:

(A) An affected applicant for a license; or

(B) The individual holding a license subject to
revocation.

SECTION 2. Arkansas Code § 17-3-102(e), concerning licensing
restrictions based on criminal records, is amended to read as follows:

(e) Due to the serious nature of the offenses, the following shall
result in ~~permanent~~ disqualification for licensure, regardless of the date of
conviction or the date on which probation or incarceration ends unless a
waiver is granted under subsection (b) of this section:

(1) Capital murder as prohibited in § 5-10-101;



- 1 (2) Murder in the first degree as prohibited in § 5-10-102 and
2 murder in the second degree as prohibited in § 5-10-103;
3 (3) Kidnapping as prohibited in § 5-11-102;
4 (4) Aggravated assault upon a law enforcement officer or an
5 employee of a correctional facility as prohibited in § 5-13-211, if a Class Y
6 felony;
7 (5) Rape as prohibited in § 5-14-103;
8 (6) Sexual extortion as prohibited in § 5-14-113;
9 (7) Sexual assault in the first degree as prohibited in § 5-14-
10 124 and sexual assault in the second degree as prohibited in § 5-14-125;
11 (8) Incest as prohibited in § 5-26-202;
12 (9) Endangering the welfare of an incompetent person in the
13 first degree as prohibited in § 5-27-201;
14 (10) Endangering the welfare of a minor in the first degree as
15 prohibited in § 5-27-205;
16 (11) Adult abuse that constitutes a felony as prohibited in § 5-
17 28-103; and
18 (12) Arson as prohibited in § 5-38-301.

19
20 SECTION 3. Arkansas Code § 17-3-102(g), concerning licensing
21 restrictions based on criminal records, is amended to read as follows:

22 (g) The ~~permanent~~ disqualification for an offense listed in subsection
23 (a) or subsection (e) of this section does not apply to an individual who
24 holds a valid license on July 24, 2019.

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27 **APPROVED: 4/19/21**
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State of Arkansas

As Engrossed: S3/31/21

93rd General Assembly

A Bill

Regular Session, 2021

HOUSE BILL 1068

By: Representative Pilkington

For An Act To Be Entitled

AN ACT TO CLARIFY THE TELEMEDICINE ACT; TO SPECIFY
THAT THE HOME OF A PATIENT MAY BE AN ORIGINATING SITE
FOR TELEMEDICINE AND THAT GROUP MEETINGS MAY BE
PERFORMED VIA TELEMEDICINE; TO CLARIFY REIMBURSEMENT
OF TELEMEDICINE SERVICES; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE TELEMEDICINE ACT; TO
SPECIFY THAT THE HOME OF A PATIENT MAY BE
AN ORIGINATING SITE FOR TELEMEDICINE AND
THAT GROUP MEETINGS MAY BE PERFORMED VIA
TELEMEDICINE; AND TO CLARIFY
REIMBURSEMENT OF TELEMEDICINE SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-80-402(3), concerning the definition of
"originating site" within the Telemedicine Act, is amended to read as
follows:

(3)(A) "Originating site" means a site at which a patient is
located at the time healthcare services are provided to him or her by means
of telemedicine.

(B) "Originating site" includes the home of a patient;

SECTION 2. Arkansas Code § 17-80-404, concerning the appropriate use
of telemedicine, is amended to add an additional subsection to read as
follows:

(f)(1) A healthcare professional may use telemedicine to perform group



1 meetings for healthcare services, including group therapy.

2 (2) Telemedicine for group therapy provided to adults who are
3 participants in a program or plan authorized and funded under 42 U.S.C. §
4 1396a, as approved by the United States Secretary of Health and Human
5 Services, may only be permitted if the Centers for Medicare and Medicaid
6 Services allows telemedicine for group therapy provided to adults.

7 (3) Telemedicine shall not be used for group therapy provided to
8 a child who is eighteen (18) years of age or younger.

9
10 SECTION 3. Arkansas Code § 23-79-1601(4), concerning the definition of
11 "originating site" regarding coverage for services provided through
12 telemedicine, is amended to read as follows:

13 (4)(A) "Originating site" means a site at which a patient is
14 located at the time healthcare services are provided to him or her by means
15 of telemedicine.

16 (B) "Originating site" includes the home of a patient;

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19 /s/Pilkington
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22 APPROVED: 4/19/21
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State of ArkansasAs Engrossed: H1/25/21 H2/8/21 H2/10/21 S3/9/21 S3/17/21 S4/6/21 S4/12/21

93rd General Assembly

A Bill

Regular Session, 2021

HOUSE BILL 1063

By: Representatives Dotson, Pilkington

By: Senator Hester

For An Act To Be Entitled

AN ACT TO AMEND THE TELEMEDICINE ACT; TO AUTHORIZE
ADDITIONAL REIMBURSEMENT FOR TELEMEDICINE VIA
TELEPHONE; TO DECLARE AN EMERGENCY; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE TELEMEDICINE ACT; TO
AUTHORIZE ADDITIONAL REIMBURSEMENT FOR
TELEMEDICINE VIA TELEPHONE; AND TO
DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-80-402(4), concerning the definition of
a "professional relationship" as used under the Telemedicine Act, is amended
to read as follows:

(4) "Professional relationship" means at a minimum a
relationship established between a healthcare professional and a patient
when:

(A) The healthcare professional has previously conducted
an in-person examination of the patient and is available to provide
appropriate follow-up care, when necessary, at medically necessary intervals;

(B) The healthcare professional personally knows the
patient and the patient's relevant health status through an ongoing personal
or professional relationship and is available to provide appropriate follow-
up care, when necessary, at medically necessary intervals;



1 (C) The treatment is provided by a healthcare professional
2 in consultation with, or upon referral by, another healthcare professional
3 who has an ongoing professional relationship with the patient and who has
4 agreed to supervise the patient's treatment, including follow-up care;

5 (D) An on-call or cross-coverage arrangement exists with
6 the patient's regular treating healthcare professional or another healthcare
7 professional who has established a professional relationship with the
8 patient;

9 (E) A relationship exists in other circumstances as
10 defined by rule of the Arkansas State Medical Board for healthcare
11 professionals under its jurisdiction and their patients; ~~or~~

12 (F) A relationship exists in other circumstances as
13 defined by rule of a licensing or certification board for other healthcare
14 professionals under the jurisdiction of the appropriate board and their
15 patients if the rules are no less restrictive than the rules of the Arkansas
16 State Medical Board; or

17 (G)(i) The healthcare professional who is licensed in
18 Arkansas has access to a patient's personal health record maintained by a
19 healthcare professional and uses any technology deemed appropriate by the
20 healthcare professional, including the telephone, with a patient located in
21 Arkansas to diagnose, treat, and if clinically appropriate, prescribe a
22 noncontrolled drug to the patient.

23 (ii) For purposes of this subchapter, a health
24 record may be created with the use of telemedicine and consists of relevant
25 clinical information required to treat a patient, and is reviewed by the
26 healthcare professional who meets the same standard of care for a
27 telemedicine visit as an in-person visit;

28
29 SECTION 2. Arkansas Code § 17-80-403(c), concerning the establishment
30 of a professional relationship, is amended to read as follows:

31 (c) "Professional relationship" does not include a relationship
32 between a healthcare professional and a patient established only by the
33 following:

- 34 (1) An internet questionnaire;
35 (2) An email message;

- 1 (3) Patient-generated medical history;
2 (4) ~~Audio-only communication, including without limitation~~
3 ~~interactive audio;~~
4 ~~(5)~~ Text messaging;
5 ~~(6)~~(5) A facsimile machine; or
6 ~~(7)~~(6) Any combination thereof of means listed in subdivisions
7 (c)(1)-(5) of this section.
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10 SECTION 3. Arkansas Code § 23-79-1601(2)(C), concerning the definition
11 of "health benefit plan", is amended to read as follows:

- 12 (C) "Health benefit plan" does not include:
13 (i) Disability income plans;
14 (ii) Credit insurance plans;
15 (iii) Insurance coverage issued as a supplement to
16 liability insurance;
17 (iv) Medical payments under automobile or homeowners
18 insurance plans;
19 (v) Health benefit plans provided under Arkansas
20 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et
21 seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;
22 (vi) Plans that provide only indemnity for hospital
23 confinement;
24 (vii) Accident-only plans;
25 (viii) Specified disease plans; ~~or~~
26 (ix) Long-term-care-only plans; or
27 (x) Stand-alone dental or vision benefit plans;
28

29 SECTION 4. Arkansas Code § 23-79-1601(7), concerning the definition of
30 "telemedicine", is amended to read as follows:

31 (7)(A) "Telemedicine" means the use of electronic information
32 and communication technology to deliver healthcare services, including
33 without limitation the assessment, diagnosis, consultation, treatment,
34 education, care management, and self-management of a patient.

35 (B) "Telemedicine" includes store-and-forward technology

1 and remote patient monitoring.

2 (C) For the purposes of this subchapter, "telemedicine"
3 does not include the use of:

4 (i)(a) Audio-only communication, ~~including without~~
5 ~~limitation interactive audio~~ unless the audio-only communication is real-
6 time, interactive, and substantially meets the requirements for a healthcare
7 service that would otherwise be covered by the health benefit plan.

8 (b) As with other medical services covered by
9 a health benefit plan, documentation of the engagement between patient and
10 provider via audio-only communication shall be placed in the medical record
11 addressing the problem, content of conversation, medical decision-making, and
12 plan of care after the contact.

13 (c) The documentation described in subdivision
14 (7)(C)(i)(b) of this section is subject to the same audit and review process
15 required by payers and governmental agencies when requesting documentation of
16 other care delivery such as in-office or face-to-face visits;

17 (ii) A facsimile machine;

18 (iii) Text messaging; or

19 (iv) ~~Electronic mail systems~~ Email.

20
21 SECTION 5. Arkansas Code § 23-79-1602(e), concerning prohibitions on
22 the coverage for telemedicine services, is amended to read as follows:

23 (e) A health benefit plan shall not impose on coverage for healthcare
24 services provided through telemedicine:

25 (1) An annual or lifetime dollar maximum on coverage for
26 services provided through telemedicine other than an annual or lifetime
27 dollar maximum that applies to the aggregate of all items and services
28 covered;

29 (2) A deductible, copayment, coinsurance, benefit limitation, or
30 maximum benefit that is not equally imposed upon all healthcare services
31 covered under the health benefit plan; ~~or~~

32 (3) A prior authorization requirement for services provided
33 through telemedicine that exceeds the prior authorization requirement for in-
34 person healthcare services under the health benefit plan;

35 (4) A requirement for a covered person to choose any commercial

telemedicine service provider or a restricted network of telemedicine-only providers rather than the covered person's regular doctor or provider of choice; or

(5) A copayment, coinsurance, or deductible that is not equally imposed upon commercial telemedicine providers as those imposed on network providers.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that due to the coronavirus 2019 (COVID-19) pandemic, the Governor removed barriers to the use of telemedicine in an attempt to combat the coronavirus 2019 (COVID-19) pandemic; that these emergency actions will expire when the emergency proclamation expires, which could occur quickly; that on February 26, 2021, the Governor announced that the public health emergency was extended but that the Governor was going to lift some regulations related to the pandemic; that removing barriers to the use of telemedicine ensured that the citizens of Arkansas had the services that they needed, and removing these emergency proclamations regarding telemedicine would greatly disadvantage and harm the citizens of Arkansas who are utilizing telemedicine for healthcare services; that this bill maintains the policy changes allowed under the emergency proclamation, which would allow the citizens of Arkansas greater access to the use of telemedicine for healthcare services; and that this act is immediately necessary to ensure that the citizens of Arkansas have access to healthcare services provided via telemedicine. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Pilkington

APPROVED: 4/21/21

State of Arkansas

As Engrossed: S4/19/21

93rd General Assembly

A Bill

Regular Session, 2021

HOUSE BILL 1439

By: Representative Pilkington

By: Senator C. Tucker

For An Act To Be Entitled

AN ACT TO UPDATE THE VOLUNTEER HEALTH CARE ACT; TO
INCLUDE THERAPISTS, ADDICTION SPECIALISTS, AND
COUNSELORS IN THE VOLUNTEER HEALTHCARE PROGRAM; TO
INCREASE CONTINUING EDUCATION CREDITS UNDER THE
VOLUNTEER HEALTH CARE ACT; AND FOR OTHER PURPOSES.

Subtitle

TO UPDATE THE VOLUNTEER HEALTH CARE ACT;
AND TO INCLUDE THERAPISTS, ADDICTION
SPECIALISTS, AND COUNSELORS IN THE
VOLUNTEER HEALTHCARE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-8-803(5), concerning the definition of
"medical professional" within the Volunteer Health Care Act, is amended to
read as follows:

(5) "Medical professional" means:

(A) A physician, osteopathic physician, or optometric
physician;

(B) An osteopathic physician's assistant, physician's
assistant, or optometric physician's assistant;

(C) A chiropractic physician;

(D) A podiatric physician;

(E) A nurse licensed under § 17-87-101 et seq.;

(F) A dentist, ~~or dental hygienist, or dental assistant;~~



1 (G) A pharmacist;
2 (H) An optometrist;
3 (I) A therapist;
4 (J) An addiction specialist;
5 (K) A counselor;
6 (L) A healthcare professional who is licensed, certified,
7 or registered under Subtitle 3 of Title 17 of the Arkansas Code;
8 (M) A dietitian or an individual who offers dietary
9 services; and
10 ~~(J)~~(N) A student enrolled in an accredited program that
11 prepares the student for licensure in one (1) or more of the healthcare
12 professions listed in subdivisions~~(5)(A)-(H)~~ (5)(A)-(L) of this section.
13

14 SECTION 2. Arkansas Code § 20-8-805(b), concerning the continuing
15 education credit within the Volunteer Health Care Act, is amended to read as
16 follows:

17 (b) A medical professional shall not obtain more than ~~eight (8)~~
18 thirty-two (32) hours of credits as described in subsection (a) of this
19 section in a licensing period.
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22 /s/Pilkington
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25 **APPROVED: 4/27/21**
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