

**DEPARTMENT OF HEALTH, HEALTH FACILITY SERVICES**

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**SUBJECT:** Rules for Orthotic, Prosthetic, and Pedorthic Providers in Arkansas

**DESCRIPTION:** The rules for Orthotic, Prosthetic, and Pedorthic Providers in Arkansas are being amended as follows:

- Eliminate the word “regulation” throughout the document
- Add definition of “returning military veteran” (Section 3(28))
- Add requirements for reciprocal licensure (Section 6 (5)(a)-(f))
- Add military licensing provisions (Section 6(6))
- Add criminal history background provisions (Section 6(7)-(8))
- Add language to clarify criminal conviction disclosures on applications (Section 7(3))
- Add language from criminal background check disqualifications (Section 7(3)(a))
- Add severability clause (Section 15)

**PUBLIC COMMENT:** A public hearing was held on this rule on September 3, 2020. The public comment period expired September 3, 2020. The agency provided the following summary of the public comments it received and its responses to those comments:

Commenter’s Name: Jeremy Crawl

**COMMENT SUMMARY:** Arkansan has full licensee from another state (Oklahoma) but is not certified by BOC so practice is limited in Arkansas. Suggests that reciprocity for other certification bodies be accepted. **RESPONSE:** OPP Advisory Board recommends against licensure without BOC certification.

Commenter’s Name: Brock Berta, Transcend OP, Indiana

**COMMENT SUMMARY:** Out of state practitioner requests reciprocity for other national certification bodies be accepted by Arkansas. **RESPONSE:** OPP Advisory Board recommends against licensure without BOC certification.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following question and received the following answer:

**QUESTION:** Section 6(7)(C) states that the Board will respond to a pre-licensure criminal background check petition “within a reasonable time.” What does the Board consider to be a reasonable time? **RESPONSE:** Should be within 2 weeks following receipt of the criminal history report.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated this rule has no financial impact.

**LEGAL AUTHORIZATION:** The State Board of Health has the authority to promulgate rules prescribing “[p]rocedures for the issuance, renewal, inactivation, restoration, suspension, and revocation of a license or certification” for an orthotist, pedorthist, or prosthetist. Ark. Code Ann. § 17-107-204(a)(1). These proposed rules implement Acts 426, 820, 990, and 1011 of 2019.

Act 426, sponsored by Representative Bruce Cozart, created the Red Tape Reduction Expedited Temporary and Provisional Licensure Act and authorized occupational licensing entities to grant expedited temporary and provisional licensing for certain individuals. The Act requires occupational licensing entities to “by rule adopt the least restrictive requirements for occupational licensure” for certain individuals. Ark. Code Ann. § 17-1-108(b), *as created by Act 426*.

Act 820, sponsored by Senator Missy Irvin, amended the law concerning the occupational licensure of active duty service members, returning military veterans, and their spouses and provided automatic licensure.

Act 990, sponsored by Senator John Cooper, amended the laws regarding criminal background checks for professions and occupations to obtain consistency regarding criminal background checks and disqualifying offenses for licensure. The Act requires licensing entities to adopt rules necessary for its implementation. Ark. Code Ann. § 17-2-104, *as created by Act 990*.

Act 1011, sponsored by Representative Jim Dotson, amended the law concerning licensing, registration, and certification for certain professions and established a system of endorsement, recognition, and reciprocity for licensing, registration, and certification for certain professions.

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

**DEPARTMENT/AGENCY** Arkansas Department of Health  
**DIVISION** Health Facility Services  
**DIVISION DIRECTOR** Connie Melton, Branch Chief  
**CONTACT PERSON** Becky Bennett, Section Chief  
**ADDRESS** 5800 W. 10th Street, Suite 400, Little Rock, AR 72204  
**PHONE NO.** (501) 661-2201 **FAX NO.** (501) 661-2165 **E-MAIL** rebecca.bennett@arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Laura Shue, General Counsel  
**PRESENTER E-MAIL** Laura.shue@arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5th Floor  
Little Rock, AR 72201

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1. What is the short title of this rule? Rules for Orthotic, Prosthetic, and Pedorthic Providers in Arkansas

2. What is the subject of the proposed rule? licensing standards for OPP providers in Arkansas

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No

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

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes  No

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

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No  If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes  No  If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes  No  If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

In addition to striking "regulations" throughout, we defined "returning military veteran;" added requirements for reciprocal licensing; added military licensing provisions; added and clarified criminal history background provisions; and added a severability clause.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Ark. Code Ann. §§17-107-101 et seq.

7. What is the purpose of this proposed rule? Why is it necessary?

Mandated by 2019 Acts of Arkansas:  
315 (strike "regulation");  
426 (expedite temporary occupational licensing);  
820 (military licensing);  
990 (criminal history background checks for professions and occupations); and  
1011 (reciprocal licensing)

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

www.healthy.arkansas.gov

9. Will a public hearing be held on this proposed rule? Yes  No  If yes, please complete the following:

Date: 09/03/2020

Time: 9:00am

Place: Freeway Medical Tower, Suite 801, 5800 W. 10th St., Little Rock, AR, 72204

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

09/03/2020

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

11/01/2020

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. \_\_\_\_\_

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). \_\_\_\_\_

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

NONE KNOWN

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Health  
**DIVISION** Health Facility Services  
**PERSON COMPLETING THIS STATEMENT** Becky Bennett, Section Chief  
**TELEPHONE NO.** (501) 661-2201 **FAX NO.** (501) 661-2165 **EMAIL:** rebecca.bennett@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Rules for Orthotic, Prosthetic, and Pedorthic Providers in Arkansas

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes  No
  
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes  No
  
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes  No

If an agency is proposing a more costly rule, please state the following:

a) How the additional benefits of the more costly rule justify its additional cost;

b) The reason for adoption of the more costly rule;

c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

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

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

Total \$ 0.00

Total \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

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

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

Total \$ 0.00

Total \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?  
Yes  No

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

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



SUMMARY/INDEX  
 OPP Rules  
 092519

Section, page, and change	Source of specific authority with page & line or reason for change
Eliminate word "Regulations" -throughout document	Act 315 of 2019
3(28) Add definition of "returning military veteran" p. 3-4	Act 820 of 2019 p.2, L.22
6(5)(a-f) Add requirements for reciprocal licensure p. 6-2,3	Act 1011 of 2019
6(6) Added military licensing provisions p. 6-3	Acts 820 of 2019
6(7-8) Add criminal history background provisions p. 6 (3-5)	Act 990 of 2019
7(3) add language "the fact of and"	Modified to clarify criminal conviction disclosures on applications
7(3)(a) add language from criminal background check disqualifications	Act 990 of 2019
Section 15 add severability clause	

