

DEPARTMENT OF HEALTH, ARKANSAS STATE BOARD OF NURSING

SUBJECT: Chapter Six – Standards for Nursing Education Programs

DESCRIPTION: The Department of Health’s Arkansas State Board of Nursing proposes the following amendments to its Chapter Six – Standards for Nursing Education Programs:

For clarification, “a nursing education program whose” was deleted; and for correction to agency name, “Department” was changed to “Division.” In accordance to Act 759 of 2021, ability for a consortium of nursing homes to provide a PN nursing program was added; and with Act 757 of 2021, ability for a high school to provide a PN nursing program was added.

PUBLIC COMMENT: A public hearing was held on December 1, 2021. The public comment period expired on December 6, 2021. The Board received no comments.

Rebecca Miller-Rice, an attorney with the Bureau of Legislative Research, asked the following questions:

(1) Section I.A.1.a(4) – Should the title of the Program include the term “Licensed” as used in Ark. Code Ann. § 6-16-1005, as amended by Act 757 of 2021, § 1?

RESPONSE: The statute uses the incorrect terminology for these programs. The correct terminology doesn’t include the term “licensed” because these programs do not license an individual. The correct terminology classifies these programs as Practical Nurse Programs.

(2) Section I.A.1.a(4) – The proposed rule provides that an institution offering the Program shall be approved by the Division of Elementary and Secondary Education (“DESE”), in consultation with the Division of Higher Education (“DHE”); however, Ark. Code Ann. § 6-16-1005(e), as amended by Act 757, § 1, seems to provide that in selecting participants, i.e., a public school district or open-enrollment charter school, the DESE shall consider qualified applicants from various locations and of various sizes and demographics and consult with the entities outlined in § 6-16-1005(c), which includes the Department of Health, DHE, the Arkansas State Board of Nursing, the Office of Skills Development, and any other individual or entity involved in the practice of nursing and nursing education programs. Is the Board comfortable that the language of the rule comports with that of the statute? **RESPONSE:** Yes. The Rules as written provide for review and approval by ASBN of institutions providing the programs.

(3) Section I.A.1.b(1) – I noticed another reference to Arkansas Department of Higher Education. **RESPONSE:** Updated to the Division of Higher Education.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 17-87-203(1)(A), (8), the Arkansas State Board of Nursing shall have the power and responsibility to promulgate whatever rules it deems necessary for the implementation of Title 17, Chapter 87 of the Arkansas Code, concerning nurses and to prescribe minimum standards and approve curricula for educational programs preparing persons for licensure as registered nurses, advanced practice registered nurses, registered nurse practitioner nurses, licensed practical nurses, and licensed psychiatric technician nurses. The proposed changes include revisions made in light of Act 757 of 2021, sponsored by Representative DeAnn Vaught, which created the Licensed Practical Nurse Pathway Pilot Program; and Act 759 of 2021, sponsored by Representative Mary Bentley, which amended the laws concerning medication assistive persons and allowed education programs for licensed practical nurses in certain facilities.

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

Act 757 – enacts the LPN Pilot program

Act 759 – expands institutions who can have a PN or MA-C program

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.”**

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

Administrative Procedures Act; A.C.A. § 25-15-201, et. seq.

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

<i>RULE</i>	<i>CHANGE</i>	<i>REASON FOR CHANGE</i>
Ch. 6, pg. 6-1, Section I, (A)(1)(a) New Program Leading to Licensure	Deleted “a nursing education program whose”	Clarification
Ch. 6, pg. 6-1, Section I, (A)(1)(a)(1) New Program Leading to Licensure	Changed “Department” to “Division”	Correction to agency name
Ch. 6, pg. 6-1, Section I, (A)(3) New Program Leading to Licensure	Added ability for a consortium of nursing homes to provide a PN nursing program	Act 759 of 2021
Ch. 6, pg. 6-1, Section I, (A)(4) New Program Leading to Licensure	Added ability for a high school to provide a PN nursing program	Act 757 of 2021

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.arsbn.org

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

Date: October 19, 2021

Time: 10:00 a.m.

Place: 1123 South University Avenue, Suite 312, Little Rock, AR 72204

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

October 22, 2021

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

Date pending legislative review and approval (proposed date is January 1, 2022)

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.

Attached

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

Attached

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.

Arkansas Nursing Educational Programs

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT/AGENCY: Department of Health

DIVISION: Division of Health Related Board and Commissions/State Board of Nursing

PERSON COMPLETING THIS STATEMENT: Sue Tedford

PHONE NO.: (501) 686-2703 **FAX NO.:** (501) 686-2714 **E-MAIL:** sue.teford@arkansas.gov

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

SHORT TITLE OF THIS RULE Chapter Six – Standards for Nursing Education Programs

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X

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 X 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 X 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;
N/A

 - (b) The reason for adoption of the more costly rule;
N/A

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

 - (d) Whether the reason is within the scope of the agency’s statutory authority, and if so, please explain.
N/A
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 _____ 0
Federal Funds _____ 0
Cash Funds _____ 0
Special Revenue _____ 0
Other (Identify) _____ 0

Total _____ 0

General Revenue _____ 0
Federal Funds _____ 0
Cash Funds _____ 0
Special Revenue _____ 0
Other (Identify) _____ 0

Total _____ 0

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

Current Fiscal Year

General Revenue 0
Federal Funds 0
Cash Funds 0
Special Revenue 0
Other (Identify) 0

Total 0

Next Fiscal Year

General Revenue 0
Federal Funds 0
Cash Funds 0
Special Revenue 0
Other (Identify) 0

Total 0

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

\$ 0

Next Fiscal Year

\$ 0

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

\$ 0

Next Fiscal Year

\$ 0

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 X

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.