

DEPARTMENT OF HEALTH, ARKANSAS STATE BOARD OF NURSING

SUBJECT: Chapter Seven – Rules of Procedure

DESCRIPTION: The Department of Health’s Arkansas State Board of Nursing proposes the following amendment to its Chapter Seven – Rules of Procedure:

In accordance with Act 346 of 2021, the violation of performing healthcare related acts 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.

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), 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. The proposed changes include revisions made in light of Act 346 of 2021, sponsored by Representative DeAnn Vaught, which prohibited the performance of a pelvic examination on an unconscious or anesthetized patient without the prior consent of the patient.

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

Act 346 – the Act prohibits pelvic examinations on an unconscious or anesthetized patient without prior consent. The ASBN Rule broadens the scope to any healthcare act.

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 Yes No If yes, a copy of the repealed rule is to be included with your completed questionnaire.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. 7, pg. 7-6, Section IV, (A)(6)(v) Disciplinary Proceedings	Added the violation of performing healthcare related acts	Act 346 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 Association of Nurse Anesthetists, Arkansas Nurses Association, Arkansas Nurse Practitioner Association, Arkansas Medical Society, Arkansas Medical Board, 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.tedford@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 Seven – Rules of Procedure**

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

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 _____

(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.