

# EXHIBIT H

## QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Arkansas State Board of Nursing  
DIVISION \_\_\_\_\_  
DIVISION DIRECTOR Sue Tedford  
CONTACT PERSON Susan Lester  
ADDRESS 1123 South University, Suite 800, Little Rock, AR 72204  
PHONE NO. 501-686-2704 FAX NO. 501-686-2714 E-MAIL slester@arsbn.org  
NAME OF PRESENTER AT COMMITTEE MEETING Sue Tedford  
PRESENTER E-MAIL stedford@arsbn.org

### 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 Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
Room 315, State Capitol  
Little Rock, AR 72201

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1. What is the short title of this rule?  
*ASBN Rules:* Chapter 1 – General Provisions; Chapter 2 – Licensure; Chapter 3 – Registered Nurse Practitioner; Chapter 4 – Advanced Practice Nurse; and Chapter 6 – Standards for Nursing Education Programs
2. What is the subject of the proposed rule?  
*ASBN Rules:* Chapter 1 – General Provisions; Chapter 2 – Licensure; Chapter 3 – Registered Nurse Practitioner; Chapter 4 – Advanced Practice Nurse; and Chapter 6 – Standards for Nursing Education Programs
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes \_\_\_\_\_ No  X   
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  X   
If yes, what is the effective date of the emergency rule? n/a  
When does the emergency rule expire? n/a  
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes \_\_\_\_\_ No  n/a

5. Is this a new rule? Yes \_\_\_\_\_ No  If yes, please provide a brief summary explaining the regulation.  
\*With one exception: Chapter 4, Section IX, which relates to prescribing guidelines for anorexiants drugs.
- 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 Arkansas Code citation.  
ACA §17-87-101 through 311; ACA §17-87-60, Article 8
7. What is the purpose of this proposed rule? Why is it necessary?  
The majority of the changes are for the purpose of clarification. The new section in Chapter 4 is to increase public protection.
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 9, 2012  
Time: 10:00  
Place: Arkansas State Board of Nursing Boardroom, Ste. 311
10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
October 26, 2012
11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
January 1, 2013 for all except Section IX in Chapter 4 that will require statutory change. The proposed effective date for that section will be July 1, 2013.
12. Do you expect this rule to be controversial? Yes \_\_\_\_\_ No  If yes, please explain.
13. 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 Medical Board  
Arkansas Medical Society  
Arkansas Nurse's Association  
Arkansas Association of Nurse Anesthetists  
American Association of Nurse Anesthetists

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas State Board of Nursing  
**DIVISION** \_\_\_\_\_  
**PERSON COMPLETING THIS STATEMENT** Susan Lester  
**TELEPHONE NO.** 501-686-2704 **FAX NO.** 501-686-2714 **EMAIL:** slester@arsbn.org

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE**

Chapter 1 – General Provisions

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes \_\_\_\_\_ No X
2. Does this proposed, amended, or repealed rule affect small businesses?  
Yes \_\_\_\_\_ No X

*If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.*

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue 0.00  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total 0.00

General Revenue 0.00  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total 0.00

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

**Next Fiscal Year**

\$ 0.00

\$ 0.00

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

**Current Fiscal Year**

**Next Fiscal Year**

\$ 0.00

\$ 0.00





## ARKANSAS STATE BOARD OF NURSING

1123 S. University Avenue, Suite 800, University Tower Building, Little Rock, AR 72204  
Phone: (501) 686-2700 Fax: (501) 686-2714 www.arsbn.org

### MEMORANDUM

DATE: October 12, 2012

TO: Donna Davis  
Senior Legislative Research Analyst, Bureau of Legislative Research,  
and  
Phil Price  
Senior Legislative Analyst, Bureau of Legislative Research

FROM: Susan Lester  
Executive Assistant

RE: Proposed Changes to the ASBN *Rules*: Chapters One, Two, Three,  
Four and Six

In compliance with Arkansas statutes, please find enclosed mark-up copies of the proposed changes to the Board of Nursing *Rules* – Chapters 1-General Provisions, Chapter 2- Licensure, Chapter 3-Registered Nurse Practitioner, Chapter 4-Advanced Practice Nursing and Chapter 6-Standards for Nursing Education Programs. We are requesting that these proposed changes be placed on the Public Health, Welfare and Labor Committee agenda and the Administrative Rules and Regulations agenda for review. The public comment period ends October 26, 2012. A synopsis of the changes follows:

#### Synopsis of Rules Changes

Chapter 1 – General Provisions – Definitions of common terms utilized by the Board of Nursing have been added in order to improve the understanding of these terms by stakeholders. The definitions are not new, but are being formally defined in rule. All of the definitions except the one on clinical experience are related to the continuing education requirements for licensure which have been in place since 2001. The term “clinical experience” is being defined since the term is being added to Chapter 6, Standard for Nursing Education Programs. The name of the ASBN scholarship program was changed when the previous executive director retired in 2010. The Rules are being updated to reflect this change.

Chapter 2 – Licensure – The changes to Section III(B), Section VIII(D) and Section XI are being made in order to align with current ASBN procedures. In 2011 ASBN stopped issuing paper nursing licenses in order to decrease fraudulent use of the license and therefore the information became obsolete.

A practice requirement/refresher course for nurses applying for licensure by endorsement has been added to Section IV(A). A refresher course has been required since 2003 for Arkansas nurses whose license has been inactive for more than five years. However, a nurse has been able to endorse into Arkansas and obtain an active license even if they have been out of practice for five or more years. This section was added in order for the endorsement applicant requirements to align with the reinstatement requirements of an Arkansas licensee. In addition, a provision was added to Section IV(A) and Section VII(C) which allows a nurse to bypass the refresher course requirement if they had been in active practice during the past year.

Sue A. Tedford, MNsc, RN  
Executive Director

Fred Knight  
General Counsel

**Board Members:**

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Mountain Home

Cathleen Shultz, PhD, RN  
Searcy

Shela Upshaw, RN  
Crossett

Chapter 3 – Registered Nurse Practitioner – The proposed changes to Chapter 3 are being made in order to align with current ASBN procedures. In 2011 ASBN stopped issuing paper nursing licenses in order to decrease fraudulent use of the license and therefore the information became obsolete.

Chapter 4 – Advanced Practice Nurse (APN) - The description of scope of practice as described in Section I has been clarified due to the appearance in the current language that the scope of practice was defined by the certifying bodies when in fact only the Board of Nursing can define scope of practice.

Since 2003 the minimal educational preparation of the APN by examination has been a graduate degree. This has been clarified in each of the different roles in Section II (A-D) with the use of consistent language.

The requirement for a refresher course/orientation for endorsement applications was added to Section III(C). If an APN is out of practice for more than two (2) years, they will be required to complete a refresher course/orientation program prior to licensure. The refresher course requirement was changed in Section III(H) to two (2) years for consistency. The level of care provided by an APN is much higher than other levels of nursing and the nurse must be up to date in order to provide competent care.

The proposed changes to Sections IV and V are being made in order to align with current ASBN procedures. In 2011 ASBN stopped issuing paper nursing licenses in order to decrease fraudulent use of the license and therefore the information became obsolete.

The criteria for professional certification programs are described in Section VII. A clarification was added that periodic review of the passing standard on an exam means at least every five years. Also a requirement that following disciplinary action against an APN, the Board will notify the corresponding certifying body was added. Both of these changes were made in order to align with national standards.

Section VII(D)(3)(d) requires an APN to notify the Board when a collaborative practice agreement is terminated. It currently required the notification to occur by the next business day. This is difficult to accomplish and therefore the timeframe was modified to 30 days.

Section VIII was written when all prescriptions were written on a paper form. Compliance with the current Rules was impossible when utilizing electronic prescriptions. The proposed changes allow the APN to utilize electronic prescriptions.

A new Section IX, Prescribing Guidelines for Anorexiants Drugs was added to this chapter. Over the past couple of years there have been several incidents of questionable prescribing of anorexiants drugs by APNs. The Arkansas State Medical Board has specific guidelines that physicians must adhere to when prescribing these drugs. There were no such guidelines for APNs and this was creating issues that could potentially lead to patient harm. The Board of Nursing collaborated with the Arkansas Medical Board in the development of the guidelines. These guidelines mirror those for physicians. It is believed that nurses should not have more prescriptive freedom than physicians when prescribing these medications.

Section XI, Educational program accreditation was clarified to reflect current practice.

Chapter 6 – Standards for Nursing Education Programs – The proposed additions to Section I(A) Institution Requirements were added to assist maintaining high quality educational programs in the state. Many other states have seen a proliferation of new nursing programs. With this proliferation there has been a noted decline in the quality of education provided to the students. The current nursing programs in Arkansas have been operating for years and provide high quality education. The affiliation requirement with a current Arkansas nursing program will facilitate the development of a strong program. The accreditation requirements are currently in place. Prerequisite approval is currently in place but the requirement of waiting two years if approval is denied has been added. This clarifies the specific timeframe for resubmitting a proposal.

In Section II(E) additional clarification was added to the requirements for faculty clinical experience. The Board does not approve the hiring of faculty in nursing programs so guidance is being provided. The clinical faculty: student ratio has been 1:10 regardless of clinical setting. Depending on the acuity of the patient, this ratio may not provide adequate supervision. Specific ratios have been identified based on the general acuity of the clients in each of the settings.

The only expected opposition to the proposed changes to the ASBN *Rules* will be from the Arkansas Nurses Association on Chapter 4, Section IX, Prescribing Guidelines for Anorexiants. No financial impact is anticipated. Enclosed are two copies of the proposed mark-up rules along with copies of the Financial Impact forms and questionnaire. The public comment period begins September 27, 2012 and ends October 26, 2012. Two public hearings will be held. The first is scheduled for 10:00 a.m. on October 9, 2012 in the ASBN Boardroom. This public hearing will cover the proposed changes to Chapters 1, 2, 3 and 6. The second public hearing will be at 2:00 p.m. on October 9, 2012 in the ASBN Boardroom. It will cover the proposed changes to Chapter 4. Provided no changes are needed due to comments received, the rule changes in Chapters 1, 2, 3, 4 and 6 are set to be effective on January 1, 2013. If you have any questions concerning this submission, please contact me at 686-2704 or Sue Tedford, Executive Director, at 686-2703.

sgl

Enclosures

