



# Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000  
 Governor Asa Hutchinson  
 José R. Romero, MD, Secretary of Health

September 1, 2021

Senator Kim Hammer, Co-Chair  
 Representative Les Eaves, Co-Chair  
 Administrative Rules Subcommittee  
 Arkansas Legislative Council  
 Via Email [whittakerj@blr.arkansas.gov](mailto:whittakerj@blr.arkansas.gov)

Dear Co-Chairs,

Pursuant to Ark. Code Ann. § 25-15-216(b)(4), as amended by Act 595 of 2021, please consider the following Arkansas Department of Health (ADH) Division of Health-Related Boards and Commissions update on rulemaking resulting from Acts of 2021. Arkansas law requires that each rule be promulgated by the specific Board or Commission, which meet at various times of the year. Various regulatory boards under the ADH Division of Health-Related Boards and Commissions are now drafting and amending rules. Please find a summary of the Boards' efforts made thus far below.

## Arkansas State Board of Chiropractic Examiners

The Arkansas State Board of Chiropractic Examiners has identified the following Acts to be promulgated and require updates to its rules. Act 135 requires the Board to modify rules regarding the automatic occupational licensure requirements for uniformed services members, returning uniformed services veterans, and their spouses. Act 390 exempts chiropractors performing chiropractic upon animals if the Chiropractor is licensed in this state and certified by the American Veterinary Chiropractic Association. The Board will update its rules. Act 589 regulates procurers. The Board will make updates to its rules to enforce this. Act 748 removes the term "permanently disqualifying offenses." The Board's rules will be amended. Act 762 revises the automatic barriers to licensure. The Board will amend its rules.

The Board is drafting and will approve these rule changes as soon as possible at a future Board meeting. It will then be completing the required forms for rule promulgation. It will submit the proposed rules and documentation to the Department of Health this fall for review. It will then seek the Governor's office approval. Once that is received, the Board will continue the promulgation process outlined in the Administrative Procedure Act (APA).

## Arkansas Board of Dispensing Opticians

The Arkansas Board of Dispensing Opticians has identified the following Acts of 2021 and will be making updates to its rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. This Act requires revisions of the current rule. Act 725 provides an initial fee waiver for those individuals listed in the Act. This requires additional language to be added to the existing rule. Act 746 provides for the licensure of an individual holding a "work permit" if all other licensure requirements have been met and it requires additional language to be added to the existing rule. Act 748 removes the term "permanently disqualifying offenses" in reference to criminal background checks, and it requires revisions of the current rule. Act 811 provides for the licensure of individuals who have completed a Federal apprenticeship program and requires additional language to be added to the existing rule.

The Board has met and approved proposed changes in accordance with the identified Acts of 2021 above. The Board plans to promulgate and update its rules to comply and enforce these recent Acts. It will do so in accordance with the Administrative Procedure Act (APA). The Board will submit these to the ADH in late August for the Department to review proposed changes. The Board will then seek approval from the Governor's office to proceed with the APA rulemaking process.

## Arkansas State Medical Board

The Arkansas State Medical Board has identified the following Acts that need to be promulgated and will require updating of its rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. Act 503 modifies physician dispensing and requires the Board to work with the State Board of Pharmacy to draft a formulary of medicinal drugs that a pharmacist may prescribe for the treatment of conditions listed in the Act. Act 560 requires rules regarding informed consent for chemical abortions. Act 634 modifies the prescriptive authority of physician assistants. The Board will amend its rules for these. Act 651 mandates co-prescription of an opioid antagonist under certain conditions. The Board will have to promulgate rules for this in coordination with the Pharmacy Board. Act 674 modifies the requirements for the filing of death certificates. Act 725 provides an initial fee waiver for those individuals listed in the Act. This will require the Board to draft new language to comply with this Act. Act 746 provides for the licensure of an individual holding a "work permit" if all other licensure requirements have been met. The Board will need to update language regarding citizenship. Act 748 removes references to "permanently disqualifying offenses. Current rules may need to be amended. Act 803 requires rules regarding a multi-year license for physicians. Act 811 requires rules for licenses that do not require a bachelor's degree or higher to work and earn a paycheck while also fulfilling licensing requirements. Act 829 revises the Telemedicine Act and professional relationship establishment.

Act 1101 requires all fees not included in the Arkansas Code to be included in rules. A list of all current licensure fees and renewal fees will be drafted to meet this requirement.

The State Medical Board is working with the Attorney General's office and is in the process of drafting language to comply with these Acts and will be completing the required forms for rule promulgation. This language will be submitted to the Board at the October Board Meeting. Upon approval, the proposed rules and documentation will be submitted to the Department of Health. The Board will then seek the Governor's office approval and then continue the promulgation process outlined in the Administrative Procedure Act.

#### Full Independent Practice Committee

The Arkansas Department of Health Division of Health Related Boards and Commissions is drafting rules to comply with Act 412 which establishes the Full Independent Practice Committee. Act 769 will also require the ADH to draft rules, establishing fees, and develop applications for licensure to be approved by the Full Independent Practice Committee. The Committee has not been fully appointed at this time. However, staff and legal counsel plan to continue to draft language to present for approval by the Committee when the members are appointed.

It is the Department's goal to move through the promulgation process established by Arkansas Administrative Procedure Act as quickly as possible.

#### State Board of Examiners of Alcoholism & Drug Abuse Counselors

The State Board of Examiners of Alcoholism & Drug Abuse Counselors has identified the following Acts that need to be promulgated and will require updating its rules. Act 746 provides for the licensure of an individual holding a "work permit." Act 748 removes the term 'permanently disqualifying offenses' from the Board's rules. Act 725 requires the Board shall waive the initial licensing fee to those individuals that qualify under the Workforce Expansion Act. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals.

The Board drafted and approved these rule changes at its August 13th Board meeting and will be completing the required forms for rule promulgation. It will submit the proposed rules and documentation to the Department of Health before the end of August for review. It will then seek the Governor's office approval. Once that is received, the Board will continue the promulgation process outlined in the Administrative Procedure Act.

#### Arkansas State Board of Dental Examiners

The Arkansas State Board of Dental Examiners has identified the following Acts to be promulgated and will require updating of its rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding

renewals. Act 651 mandates co-prescription of an opioid antagonist under certain conditions. The Board will need to promulgate rules for this after the Medical Board and Pharmacy Board draft language that is approved by their Boards. Act 725 provides an initial fee waiver for those individuals listed in the Act. This will require the Board to draft new language to comply with this Act. Act 746 provides for the licensure of the individual holding a "work permit" if all other licensure requirements have been met. Act 748 removes reference to "permanently disqualifying offenses. Act 1011 requires the Board's fees to be promulgated in its rules.

The Board is in the process of drafting language to comply with these Acts and then will complete the required forms for rule promulgation. It will seek the Board's approval and plans to submit the proposed rules and documentation to the Department of Health before the end of August for review. It will then seek the Governor's office's approval and continue the promulgation process outlined in the Administrative Procedure Act.

#### Arkansas Psychology Board

The Arkansas Psychology Board has identified the following Acts to be promulgated as rules and require updates to its rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. Act 725 provides an initial fee waiver for those individuals listed in the Act. This will require the Board to draft new language to comply with this Act. Act 746 provides for the licensure of the individual holding a "work permit" if all other licensure requirements have been met. The Board will need to update language regarding citizenship. Act 748 removes references to "permanently disqualifying offenses. Act 767 revises the definition of "originating site," and the Board will draft new language to comply with this Act. Act 829 revises the definition of "professional relationship." Act 883 implements the Psychological Interjurisdictional Compact, and the Board will have to compare the Act to its current rules. Act 968 modifies the definition of continuing education to include volunteer services provided under the Volunteer Health Care Act.

The Board is in the process of drafting language to comply with these acts and then will complete the required forms for rule promulgation. It will seek the Board's approval and plans to submit the proposed rules and documentation to the Department of Health at the end of September for review. It will then seek the Governor's office approval and continue the promulgation process outlined in the Administrative Procedure Act (APA).

#### Arkansas State Board of Optometry

The Arkansas State Board of Optometry has identified the following Acts of 2021 to be promulgated and will require updating the Board's rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. This requires a revision of current rules. Act 651 mandates the co-prescription of an opioid antagonist under certain conditions. This will require additional rules once the Medical Board and Pharmacy Board promulgate rules. Act 725 provides an initial fee waiver for those

individuals listed in the Act. It also requires additional language to be added to existing rules. Act 746 provides for the licensure of an individual holding a "work permit" if all other licensure requirements have been met. This Act requires additional language to be added to the existing rule. Act 748 removes the term "permanently disqualifying offenses" in reference to criminal background checks and requires revisions of current rules. Act 1101 requires all fees not specified by law to be included in Board rules and requires additional language to be added to existing rules.

The Board is drafting and reviewing proposed changes in accordance with the identified Acts of 2021 above. The Board plans to submit its draft of changes to the ADH in early September. Rules will be reviewed by the ADH and submitted to the Governor's office for approval. The Board will then continue with the promulgation process as outlined in the APA.

#### Arkansas State Board of Pharmacy

The Arkansas State Board of Pharmacy has identified the following Acts from the 2021 legislative session, which will require updating its rules. Act 63 of 2021 eliminates the nursing home consultant pharmacist permit and the disease state management credential. Drafts for updates to Board Rule 5 and Rule 9 have been made for the Board to review and begin the filing process with ADH and the Governor's office. Act 135 of 2021 establishes Arkansas occupational licensing of uniformed service members, veterans, and spouses. The Board has drafted updates to Rule 1 for the Board of Pharmacy to match new language resultant from this Act. It is currently in process to begin filing with ADH and the Governor's office. Act 406 of 2021 allows pharmacists to prescribe, administer, deliver, distribute, or dispense vaccines, immunizations, and medications to treat adverse reactions to administered vaccines. Drafts for updates to the Board's Rule 9 have been made for the Board review and to begin the filing process with ADH and the Governor's office. Act 407 of 2021 will authorize pharmacy technicians to administer vaccines and immunizations. Drafts for updates to the Board's Rule 9 have been made for the Board to review and begin the filing process with ADH and the Governor's office. Act 503 of 2021 allows pharmacists to treat certain health conditions, modifies physician dispensing, and allows delegation of physician dispensing. The Board anticipates that there will be potential changes to Rule 7 and Rule 9 from this Act. Currently, the Board is discussing with interested parties as they explore how best to proceed with these proposed updates. The Board of Pharmacy has also communicated with the Arkansas State Medical Board to begin outlining the Pharmacy Board requirements when filling prescriptions and to assist the Medical Board in promulgating rules that are at least as stringent as the Pharmacy Board.

Act 651 mandates the co-prescription of an opioid antagonist under certain conditions and amends the naloxone access act. The Board of Pharmacy has developed guidance and shared it with the Arkansas Medical Board for consideration. The Board will work with Arkansas Medical Board and review requested changes before proceeding. Act 922 of 2021 set standards for prescriptions delivery. The Board of Pharmacy is in discussions with interested parties to see

how to best proceed with a future rule change regarding this Act. Lastly, the Board intends to follow the language of Act 408, which requires the Board to be thorough in explaining the process for pharmacists to provide oral contraceptives. This includes the use of a statewide protocol which would not require any rule change and the completion of a training program that will need to be approved by the Board of Pharmacy. It is the intent of the Board to work with interested stakeholders towards the statewide protocol and to review training programs that would be presented to the Board for approval.

#### Arkansas Board of Examiners in Counseling and Marriage & Family Therapy

The Board of Examiners in Counseling has identified the following Acts of 2021 to be promulgated and will require updates to the Board's rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. This requires a revision of current rules. Act 725 provides an initial fee waiver for those individuals listed in the Act and requires additional language to be added to the existing rule. Act 748 removes the term "permanently disqualifying offenses" in reference to a criminal background check and will require a revision of current rules. Act 767 revises the definition of "originating site" for telehealth purposes. The Act requires a revision of current rules. Act 829 revises the definition of "professional relationship" for telehealth purposes. This requires a revision of current rules. Act 968 modifies continuing education requirements to include volunteer service hours under the Volunteer Healthcare Act. The Act requires revisions of current rules.

The Board will vote to approve proposed changes based on the above-identified Acts of 2021 as soon as possible. The Board is in the process of completing the required forms for rule promulgation and plans to submit the proposed rules and documentation to the Department of Health in early September.

#### Arkansas State Board of Nursing

The Arkansas State Board of Nursing (ASBN) has identified recent Acts of 2021 which require a revision in the ASBN Rules. The Board has submitted these for further review to the ADH and to the Governor's office. Act 135 modifies the automatic occupational licensure requirements for uniformed services members, returning veterans, and spouses. The Board will amend its rules. Act 346 prohibits pelvic examination on an unconscious or anesthetized patient without prior consent. This will require new language. Act 412 authorizes full independent practice authority for Certified Nurse Practitioner. The Board will amend its rules. Act 439 allows employees of a city or county detention center to administer glucagon or insulin to a person who is incarcerated or in custody. This will require new language. Act 449 replaces the term "supervision" with "consultation" for CRNAs. The Board will amend its rules. Act 607 grants full practice authority to CNM. The Board will amend its rules. Act 630 requires the submission of Federal criminal records checks electronically for Arkansas residents. The Board will amend its rules. Act 651

mandates co-prescribing of an opioid antagonist when prescribing an opioid in certain conditions. This will require new language. Act 725 requires a waiver of fees for individuals who are seeking initial licensure. This will require new language. Act 746 allows licensure of individuals who hold a Federal Form I-766 US Citizenship and Immigration Services – issued Employment Authorization Document. This will require new language. Act 757 permits establishment of an LPN Pilot Program. This Act will require new language. Act 759 expands institutions that can establish a PN or MA-C program. This Act will require new language. Act 762 revises the automatic barriers to licensure. The Board will amend its rules. Act 767 revises statutes for telemedicine. The Board will amend its rules. Act 968 increases the number of CE hours allowed for volunteer work in specific settings. The Board will amend its rules. Act 1050 permits the administration of medication for adrenal insufficiency or adrenal crisis in the school setting. This will require new language. Act 1101 requires identifying administrative fees and penalties in the Board's rules. This will require new language in the Board's rules.

#### Social Work Licensing Board

The Social Work Licensing Board has identified the following Acts of 2021 that will require rules to be promulgated and will also require updating of the Board's rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. This requires revisions of current Board rules. Act 725 provides an initial fee waiver for those individuals listed in the Act. This requires additional language to be added to existing rules. Act 746 provides for the licensure of an individual holding a "work permit" if all other licensure requirements have been met. The Board's rule requires additional language be added to existing rules. Act 748 removes the term "permanently disqualifying offenses" in reference to criminal background checks. This requires a revision of current rules. Act 767 revises the definition of "originating site" for telehealth purposes, and this requires a revision of current rules. Act 829 revises the definition of "professional relationship" for telehealth purposes. This change requires a revision of current rules. Act 968 modifies continuing education requirements to include volunteer service hours under the Volunteer Healthcare Act. This requires a revision of current rules.

The Board voted to approve proposed changes based on the above-identified Acts of 2021 on August 9th, 2021. The Board is in the process of completing the required forms for rule promulgation and will be submitting the proposed rules and documentation to the Department of Health soon.

#### Arkansas State Board of Examiners of Speech-Language Pathology & Audiology

The Board, legal counsel, and staff are working on drafting and identifying language allowing the Board to amend rules and implement Acts from 2021. The Board will submit changes to the ADH for its review and then seek approval from the Governor's office for promulgation under the APA process. These acts will require the Board to revise its rules. Act 135 revises military

licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. Act 153 provides an initial fee waiver for those individuals listed in the Act. Act 746 provides for the licensure of an individual holding a "work permit" if all other licensure requirements have been met. Act 767 defines how telemedicine services should be provided, their limits, and the quality of delivery. Act 829 revises the definition of "professional relationship" for telehealth purposes. Act 968 modifies continuing education to include volunteer services under the Volunteer Health Care Act.

#### Arkansas State Board of Physical Therapy

The Board is working with its staff and legal counsel to identify and draft the necessary language that will allow the Board to amend rules to implement recent acts from the 2021 Regular Session. Once approved by the Board and reviewed by the ADH, the Board will seek the necessary authority from the Governor's office and start the promulgation process under the APA. Several acts will require changes to the Board's rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. Act 725 grants initial fee waivers for those individuals listed in the Act. Act 746 provides for the licensure of individuals holding a "work permit" if all other licensure requirements have been met. Act 748 will provide potential waivers for what were permanent prohibiting offenses in criminal background checks under Act 990 of 2019. Act 767 revises the definition of "originating site" for services. Act 829 amends the Telemedicine Rule to authorize additional reimbursement for telemedicine via telephone and additional definitions of "professional relationship." Act 968 modifies the definition of continuing education to include volunteer services provided under the Volunteer Health Care Act.

#### Arkansas State Board of Acupuncture & Related Techniques

The Board of Acupuncture and Related Techniques has identified the following acts to be promulgated and will require updates in the Board's rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. Act 725 provides initial fee waivers for those individuals listed in the Act. Act 746 provides for the licensure of individuals holding a "work permit" if all other licensure requirements have been met. Act 748 removes the term "permanently disqualifying offenses."

The Board is working with its staff and legal counsel as it is drafting language to comply with the acts that affect the Board's rules. It will then seek the necessary approvals, proceed with the requirements of the Administrative Procedure Act, and begin the promulgation process. The Board plans to complete this process as soon as possible.



## Arkansas State Board of Athletic Training

The Board of Athletic Training has identified the following acts that need to be promulgated and will require updating of the Board's rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. Act 348 authorizes athletic trainers to practice under the direct supervision of a physician. Act 725 provides an initial fee waiver for those individuals listed in the Act. Act 746 provides for the licensure of individuals holding a "work permit" if all other licensure requirements have been met. Act 748 removes the term "permanently disqualifying offenses". Act 968 modifies the definition of continuing education to include volunteer services provided under the Volunteer Health Care Act.

The Board is working with its staff and legal counsel in drafting language to comply with the acts that affect the Board's rules. It will then seek the necessary approvals, proceed with the requirements of the Administrative Procedure Act, and begin the promulgation process. The Board plans to complete this process as soon as possible.

## Arkansas Dietetics Licensing Board

On August 3rd, 2021, the Dietetics Licensing Board approved proposed rule changes that were necessary pursuant to acts of the General Assembly in 2021. The Board has proposed rule changes based on the following Acts of 2021. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. This requires a revision of the current rule. Act 725 provides an initial fee waiver for those individuals listed in the Act. It will require additional language to be added to the existing rule. Act 767 required additional language to be added to the existing rule due to how telemedicine services should be provided, their limits, and the quality of delivery. Act 748 removes the term "permanently disqualifying offenses" and requires revision of current rules. Act 829 amends Telemedicine Rules to authorize additional reimbursement for telemedicine via telephone and additional definitions of "professional relationship." This requires revisions of current rules. Act 968 modifies the definition of continuing education to include volunteer services provided under the Volunteer Health Care Act. This requires revisions of current rules.

The Board is in the process of completing the required forms for rule promulgation and has submitted the proposed rules and documentation to the Department of Health to be reviewed. Once reviewed, changes will be submitted to the Governor's office for further approval.

## Arkansas Board of Podiatric Medicine

The Board of Podiatric Medicine has identified the following Acts that require rules to be promulgated and will also require updating its rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. Act 651 mandates the co-prescription of an opioid antagonist under certain conditions.

The Board will promulgate rules for this after the Medical Board and Pharmacy Board draft rules. Act 725 provides an initial fee waiver for those individuals listed in the Act. Act 746 provides for the licensure of the individual holding a "work permit" if all other licensure requirements have been met. Act 748 removes reference to "permanently disqualifying offenses.

The Board is working with staff and legal counsel in drafting language to comply with the Acts that affect the Board. It will then seek the necessary approvals, proceed with the requirements of the Administrative Procedure Act, and begin the promulgation process. The Board plans to complete this process as soon as possible.

#### Arkansas State Board of Hearing Instrument Dispensers

The Arkansas State Board of Hearing Instrument Dispensers has identified the following rules to be promulgated and will require updates to its current rules. Act 135 revises military licensure for the purpose of renaming, adding additional qualified persons, and granting exemptions regarding renewals. Act 159 amends the Board's membership and quorum requirements. Act 725 provides an initial fee waiver for those individuals listed in the Act. This will require the Board to draft new language to comply with this Act. Act 746 provides for the licensure of the individual holding a "work permit" if all other licensure requirements have been met. Act 748 removes references to "permanently disqualifying offenses.

The Board has drafted language to comply with these Acts and is completing the required forms for rule promulgation. It plans to submit the proposed rules and documentation to the Department of Health in early September for review. It will then seek the Governor's office approval and then continue the promulgation process outlined in the Administrative Procedure Act.

The Arkansas Department of Health Division of Health-Related Boards and Commissions will continue to provide updates on rulemaking resulting from Acts of 2021. If there are changes or additional updates identified, the ADH will provide further information in these updates as submitted to the Administrative Rules Subcommittee. Please let me know if you have questions or need additional information

Sincerely,



Matt Gilmore

Boards and Commissions Coordinator  
Arkansas Department of Health  
4815 West Markham Street  
Little Rock, AR 72205-3867  
Office (501) 661-2332  
Cell (501) 247-4340  
[Matt.Gilmore@arkansas.gov](mailto:Matt.Gilmore@arkansas.gov)

**Cc:** José R. Romero, MD, Arkansas Secretary of Health  
Renee Mallory, Chief of Staff, Department of Health  
Jessica Whittaker, Administrator, Administrative Rules Review Section, BLR  
Jordan Burgess, Governor's Office