



Arkansas Department of Health

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Governor Asa Hutchinson

José R. Romero, MD, Secretary of Health

January 31, 2022

Senator Kim Hammer, Co-Chair
Representative Les Eaves, Co-Chair
Administrative Rules Subcommittee
Arkansas Legislative Council
Via Rebecca Miller-Rice Email miller-ricer@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, but after review of the Board's current rule, changes will not need to be made.

The Board has drafted and approved proposed changes for the Acts of 2021. The Arkansas Department of Health (ADH) has reviewed the changes and the Governor's office has approved. The Board is seeking public comment and 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 listed above. The ADH and the Governor's office have reviewed the proposed changes. The Board sought public comment and the rules were reviewed by the Administrative Rules Subcommittee of the Arkansas Legislative Council in January.

Arkansas State Medical Board

The Arkansas State Medical Board has identified the following Acts to be promulgated and will 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 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. Under the Act, the Board may adopt guidance 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 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. Act 1112 amends current rules regarding medical marijuana and telemedicine. The Board will amend its rule. Act 990 updates all rules with revisions enacted by Act 990 of 2019. This will require the Board to amend its current rules.

The State Medical Board has drafted language and the ADH has reviewed. The Board has submitted its rules to the Governor's office and the rules were approved. The Board will be seeking public comment and will continue the promulgation process outlined in the Administrative Procedure Act (APA).

Full Independent Practice Committee

The Committee has drafted rules to comply with Act 412 which establishes the processes of the Committee. Act 769 also requires the Committee to draft rules, establish fees, and develop applications for licensure to be approved by the Full Independent Practice Committee. The Committee has approved proposed rules, the ADH has reviewed, and the Governor's office has approved. The Committee will seek public comment and will continue the process outlined in the APA.

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 has drafted and approved rule changes. The ADH has reviewed the changes and the Governor's office has approved. The Board has completed the public comment period and will continue the promulgation process outlined in the Administrative Procedure Act.

Arkansas State Board of Dental Examiners

The Arkansas State Board of Dental Examiners (ASBDE) has identified the following Acts to be promulgated and will 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 651 mandates co-prescription of an opioid antagonist under certain conditions. The Board will promulgate rules or guidance for this. 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 Rules & Regulations Committee of the Board decided not to go forward with promulgating rules because current laws already allow for the licensure of an individual with a work permit. Act 748 removes reference to "permanently disqualifying offenses." Act 1011 requires the Board's fees to be listed in its rules.

The ASBDE has approved language to comply with these Acts. The Board submitted the proposed rules and documentation to the ADH to review. The ADH reviewed, and Governor's office approved. It will be seeking public comment and will continue the promulgation process outlined in the Administrative Procedure Act (APA).

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 amend its current rules. Act 968 modifies the definition of continuing education to include volunteer services provided under the Volunteer Health Care Act.

The Psychology Board reviewed suggested language and approved changes at its November 2021 meeting. The Board submitted its proposed changes to the ADH. The ADH reviewed, and the Governor's office approved. The Board is seeking public comment will continue the promulgation process outlined in the 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 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 651 mandates the co-prescription of an opioid antagonist under certain conditions. This will require additional rules or guidance. 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 has drafted and approved changes. The ADH and the Governor's office have reviewed proposed changes. The Board will make further changes or adopt guidance regarding

Act 651 that is consistent with approved language from the Medical Board and Board of Pharmacy. The Board will be seeking public comment and will continue the APA process.

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. Act 135 of 2021 establishes Arkansas occupational licensing of uniformed service members, veterans, and spouses. Act 406 of 2021 allows pharmacists to prescribe, administer, deliver, distribute, or dispense vaccines, immunizations, and medications to treat adverse reactions to administered vaccines. Act 407 of 2021 will authorize pharmacy technicians to administer vaccines and immunizations. The amendments will be addressed in Board Rules 1, 5, and 9. Drafts for updates to Board Rule 1, Board Rule 5 and Rule 9 have been approved by the Board. The ADH reviewed the proposed changes, and the Governor's office approved. The Board sought public comment and these rules were reviewed by the Administrative Rules Subcommittee of the Arkansas Legislative Council in January.

Act 503 of 2021 allows pharmacists to treat certain health conditions, modifies physician dispensing, and allows delegation of physician dispensing. The Board is making changes to its rules due to this Act. The ADH has reviewed proposed changes, and the Governor's office has approved. It is now seeking public comment and will continue the promulgation process.

Act 922 of 2021 set standards for prescriptions delivery. The Board of Pharmacy has drafted rules. The ADH has reviewed the proposed rules, and the Governor's office has approved. The Board is now seeking public comment and will continue the promulgation process.

The Board intends to follow the language of Act 408 of 2021, 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.

Act 651 of 2021 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.

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 has approved changes and the ADH and the Governor's office approved the proposed changes. The Board sought public comment and these rules were reviewed by the Administrative Rules Subcommittee of the Arkansas Legislative Council in January.

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. 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 examinations on an unconscious or anesthetized patient without prior consent. This will require new language. Act 412 authorizes full independent practice authority for a 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 748 removes reference to "permanently disqualifying offenses." Current rules do not need revision. 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.

The Board submitted their proposed rules to the ADH for review in July 2022. The ADH reviewed and the Governor's office has approved. Based on comments from BLR related to Act 135, Chapters 2, 3, 4, and 8 were pulled down and will be submitted as Round 2 Rules. The rules related to Act 135 were reviewed by Administrative Rules Committee on December 15, 2021. Substantiative changes were made to Chapter 4 and these changes were approved by the ADH in January 2022. The Board is now seeking the Governor's office approval.

The public comment period for the Board's proposed rules (Round 1: Ch. 1, 5, 6 and 7) was November 8, 2021 – December 6, 2021. These rules were approved by the joint Public Health, Welfare, and Labor Committee and were reviewed by the Administrative Rules Subcommittee of the Arkansas Legislative Council in January.

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

The Board has identified several Acts that will require changes to the Board's rules to implement. 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.

The Board approved changes in August and these changes were reviewed by the ADH and approved by the Governor's office. The Board sought public comment on the proposed changes and received feedback on its proposed language. The Board will be seeking further comments and will continue the promulgation process under the APA.

Arkansas State Board of Physical Therapy

Arkansas State Board of Physical Therapy has identified several Acts that 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.

The Board approved proposed language and then submitted it to the ADH. The ADH reviewed, and the Governor's office approved. The Board is now seeking to present the rules to the Rules Committee for approval. Additionally, the Board, the ADH, and the Governor's office have approved proposed changes required under Act 829. The Board is seeking public comment and will continue the promulgation process.

Arkansas State Board of Acupuncture & Related Techniques

The Board of Acupuncture and Related Techniques has identified the following Acts of 2021 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 has approved language to comply with the above Acts. The ADH and the Governor's office have reviewed the proposed changes. The Board sought public comment and these rules were reviewed by the Administrative Rules Subcommittee of the Arkansas Legislative Council in January.

Arkansas State Board of Athletic Training

The Board of Athletic Training 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. 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 approved proposed changes in its September 2021 meeting. The ADH and the Governor's office have reviewed the proposed changes. The Board sought public comment and these rules were reviewed by the Administrative Rules Subcommittee of the Arkansas Legislative Council in January.

Arkansas Dietetics Licensing Board

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 has submitted the proposed rules and documentation to the ADH, and ADH has reviewed. The Governor's office has approved proposed changes. The Board sought public comment and the proposed rules have been sent to the Administrative Rules Subcommittee of the Arkansas Legislative Council for 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 updates to 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 and allows the Board to develop guidance for its licensees. The Board has completed this in coordination with others. 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 has approved language to comply with the Acts that affect the Board. The ADH has reviewed, and the Governor's office has approved. The Board will seek public comment and continue the promulgation process.

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 approved language to comply with these Acts. The ADH reviewed proposed changes and the Governor's office approved the proposed changes. The Board sought public comment

and the Board's rules were reviewed by the Administrative Rules Subcommittee of the Arkansas Legislative Council in January.

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,



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