



Arkansas Department of ~~Health and~~ Human Services
Division of Medical Services Office of Long Term Care

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01/01/202006/01/2022

Authority

The following Rules for the Licensure of Nursing Home Administrators are duly adopted and promulgated by the Arkansas Department of ~~Health and~~ Human Services, Office of Long Term Care, pursuant to the authority expressly conferred by Title 20-10-203 (b) of the Arkansas Code.

Preface

These rules have been prepared for the purpose of establishing nursing home administrator competency as well as criterion for the licensure of nursing home administrators. There exists a relationship between the quality of care and quality of life for residents in a nursing home and the knowledge, skills, and abilities of the nursing home's administrator. This relationship becomes

increasingly apparent as nursing home administrators attempt to implement new and often complex standards of resident care services so that the facilities can participate in the full continuum of care.

The rules are subject to periodic revisions as new knowledge becomes available that will more fully establish the level of competency necessary for effective nursing home administration.

Rules are limited in their ability to set forth all the attributes necessary for quality administration. Administrators of nursing homes have a responsibility beyond the minimum standards detailed here to continue to enhance their education, experience, and professional growth.

The end result of such enhancement will be the achievement of optimum nursing home resident care.

01/01/202006/01/2022

Section III — Licensure

A. LICENSURE REQUIREMENT

No person shall administer, manage, supervise, or be in general administrative charge of a nursing home unless he or she is a licensed nursing home administrator in active status. No nursing home within the State shall operate except under the supervision of a licensed administrator. No administrator shall manage more than one nursing home.

B. APPLICATION FOR LICENSURE

Applicants for licensure shall file applications under oath with the Office Department, upon forms prescribed by the Office Department (Form DMS-7790) and shall pay the required licensure fee, as outlined in Ark. Code Ann. §20-10-404. The application and fee shall be mailed to the Department at the address provided by the Department. If the application is approved, the applicant has eighteen (18) months from the date of approval, in which to become licensed. One-half of the application licensure fee shall be refunded to the applicant if the Department denies licensure is denied because (a) the application is not approved, (b) the applicant does not pass the exams, or (c) any other reason deemed appropriate by the Office Department.

Pursuant to Ark. Code Ann. § 17-5-104, individuals may be granted a licensing waiver if they have been receiving assistance through the Arkansas Medicaid Program, the Supplemental Nutrition Assistance Program, the Special Supplemental Nutrition Program for Women, Infants, and Children, the Temporary Assistance for Needy Families Program, or the Lifeline Assistance Program; or they were approved for unemployment within the last twelve (12) months; or they have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

The waiver of the initial fee does not include fees for:

- A criminal background check;
- An examination or a test; or
- A medical or drug test.

A signed consent form from the applicant may be required for verification of eligibility.

NOTE: DHS does not currently have an initial fee. In the event that DHS requires an initial fee, the aforementioned statute would apply and those individuals would not be responsible for the initial fee.

NOTE: The application and fee shall be sent by Certified Mail to the address provided by the Office.

Agency #016.06

**Rules for the
Arkansas Long Term Care Facility
Nursing Assistant Training Program**

**Arkansas Department of Human Services
Division of Medical Services
Office of Long Term Care
1992
(Revised ~~January-June~~ 01, ~~2020~~2022)**

Section VII

REQUIREMENTS FOR ~~TESTING-EXAMINATION~~ AND CERTIFICATION

A. Transition

The initial implementation of these training and ~~testing-examination~~ requirements have covered three basic phases:

1. Deemed Equivalence Waivers -

A nursing assistant shall be deemed to have satisfied the requirement of completing a training and competency ~~evaluation-examination~~ program approved by the State if the nursing assistant:

- a. Completed a program that offered a minimum of ~~sixty (60)~~ hours of nursing assistant training before July 1, 1989 and if such received before July 1, 1989 up to ~~fifteen (15)~~ hours of supervised and practical nursing assistant training or regular in-service nursing assistant education (initial training must be at least ~~seventy-five (75)~~ hours); ~~or~~
- b. Completed a course of at least ~~one hundred (100)~~ hours of nursing assistant training and was found competent (whether ~~or not~~ by the State ~~or not~~) before January 1, 1989; or
- c. Has served as a nursing assistant at one ~~(1)~~ or more facilities of the same employer in the State for at least ~~twenty-four (24)~~ consecutive months before December 19, 1989.

Individuals will not qualify for these waivers if they have not provided nursing or nursing-related services for a period of ~~twenty-four (24)~~ months or longer since completing training. They will be required to complete a new training program and state ~~test-examination~~ to obtain current certification.

Facilities who wish to obtain certification for the ~~above-described~~ individuals should submit to ~~OLTC-the~~ ~~Department~~ Form DMS-798, Interstate Transfer Form, with attached copies of documents ~~or~~ certificates verifying course completion, ~~and the~~ number of hours in ~~the~~ course, ~~etc.~~

2. Employment status as of July 1, 1989 -

All individuals working as nursing assistants in Arkansas nursing facilities as of July 1, ~~1989~~1989, were allowed to become certified by passing the state ~~competency test~~ ~~examination~~ but were not required to complete the "formal" 75 hour training course.

This phase was completed by October 1, 1990 and does not apply

thereafter. Therefore, all individuals must now complete the ninety-90-hour training requirements to qualify to take the state ~~test-examination~~ regardless of past employment status on July 1, 1989.

3. July 1, 1989 - Ongoing -

Effective July 1, ~~1989~~1989, a facility must not use any individual working in the facility as a nursing assistant for more than four (4) months (one hundred twenty (120) calendar days) unless that individual has successfully completed a training program and competency ~~evaluation-examination~~, approved by the ~~Office of Long Term Care~~Department, as described in these rules.

B. Examination

1. The Department or its appointed agency shall be responsible for administering the competency ~~evaluation~~/examination. The exam shall be based upon the training curriculum requirements specified in the LTCF Nursing Assistant Training Curriculum Guide.
2. The examination will be in English. Translation of this examination will be offered, if needed. Additional accommodations can be made by the Department or contractor based on a documented need; however, an additional fee may be required.
3. The competency examination shall consist of two (2) components, a written (or oral) exam and a skills demonstration. Each ~~test-examination~~ candidate will be allowed to choose between a written or oral exam. The oral examination will be read from a prepared text in a neutral manner.
4. The written or /oral component shall be developed from a pool of ~~test-examination~~ questions, only a portion of which ~~is-are~~ used in ~~any-one~~each exam. The skills demonstration shall consist of a demonstration of five (5) randomly selected items drawn from a pool of tasks ranked according to difficulty.
5. The skills demonstration component will be performed in a facility (which has not been disqualified by criteria specified in Section V, item B.) or laboratory setting similar to the setting in which the individual will function.
6. The skills demonstration will be administered and evaluated by a registered nurse (RN) with at least one (1) year experience in providing care for the elderly or chronically ill of any age.
7. The skills demonstration component may be proctored by facility or /training site personnel (RNs as described above) if secure, standardized, and scored by the ~~testing-contractor agency~~ approved by the Department. "Proctoring" will not be approved in facilities subject to prohibitions specified in Section V

(item B).

8. To complete the competency ~~evaluation examination~~ successfully, an individual must pass both the written (or oral) examination and the skills demonstration. If an individual does not complete the ~~evaluation examination~~ satisfactorily, they will be advised of areas which ~~he/she/they~~ did not pass and their right to take the ~~test examination~~ three (3) times.

9. All ~~test~~ candidates will be allowed up to three (3) opportunities to successfully complete the examination. Failure after three (3) attempts will require re-training to qualify for further ~~test examination~~ opportunities. A maximum time limit of twelve (12) months shall be imposed on an individual to complete the ~~test examination~~. Verification of new re-training will be required after this 12-month limit, for further ~~testing examination~~ opportunities.

10. Effective upon notification of ~~test examination~~ results, any person who has failed the competency ~~evaluation examination~~ (either the written, ~~oral~~, or skills portion) after three (3) attempts is prohibited from providing nursing services to residents in a nursing facility. However, based on the program rules, these individuals may maintain their employment status if they re-enroll in a new training program. They would be required to follow the program implementation requirements of completing the first sixteen (16) hours (Part I) training prior to direct resident contact and can only be assigned to job duties thereafter in which they have been "checked- off" as competent to perform as they complete the remainder of the full ninety (90) hours of training. Upon successful completion of their training, they should be scheduled for the next available competency ~~exam examination~~.

11. All individuals who successfully complete the ~~competency~~ examination shall be placed on the CNA registry and issued a state certificate. Information on the registry shall be made available for public inquiry (see Section VIII).

C. Test Examination Fees, Dates, and Locations, and Fees

1. The Department does not require an initial fee for this occupational license; however, there is a fee to take the state examination. The amount of the examination fee will be announced in a timely manner by the Department or designated contractor.

2. If there were to be an initial fee, per Arkansas Code Ann §17-5-104, the following individuals are not required to pay an initial fee for this license:

a. An individual receiving assistance through the Arkansas Medicaid Program, the Supplemental Nutrition Assistance Program, the Special Supplemental Nutrition Program for Women, Infants, and Children, Temporary Assistance for Needy Families Program, or the Lifeline Assistance Program; or

b. An individual who was approved for unemployment within the last twelve (12) months; or

- c. An individual who has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.
3. The waiver of the initial fee does not include fees for:
 - a. A criminal background check;
 - b. An examination or a test; or
 - c. A medical or drug test.
4. ~~Testing will be made available~~The examination will be given at multiple sites geographically dispersed throughout the state. Schedules of times, locations, and registration requirements will be announced in a timely manner by the Department or designated ~~testing agent~~contractor.
5. At the option of the NA, the competency ~~evaluation examination~~ (both written, ~~oral~~, and skills components) may be administered in the facility at which the NA is (or will be) employed (unless the facility is disqualified by the Department under criteria specified in Section V, item B).
6. Each ~~test~~ candidate must have appropriate verification of completion of the training requirements. This will be in the form of a "certificate of completion" from an approved training program or other acceptable documents (see item D of this section and Section IV(B) of these rules).
7. The Department will be responsible to pay the ~~test~~examination fee for individuals who are employed by a Medicaid certified nursing facility or those individuals that have a commitment ("letter of intent" as defined in Section X (A) (2) of these rules) to be employed in a Medicaid certified nursing facility. Letters of intent to hire from Medicaid certified nursing facilities must be dated within ~~twelve~~ (12) months immediately preceding the date of the application to take the ~~test~~examination. Independent ~~test~~examination candidates who are taking the competency ~~test~~examination without an employment connection to a long term long-term care facility will be responsible to pay their own ~~test~~examination fee. In accordance with 42 CFR § 483.154, no nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide competency examination program may be charged for any portion of the program.
8. If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than twelve (12) months after completing a nurse aide training and competency examination program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

~~8. There will be a fee charged to take the state competency evaluation. The amount of the fee will be announced in a timely manner by the Department or designated testing agent.~~

~~8. The Department will be responsible to pay the test fee for individuals who are employed by a Medicaid-certified nursing facility or those individuals that have a commitment ("letter of intent" as defined in Section X (A) (2) of these rules) to be employed in a Medicaid-certified nursing facility. Letters of intent to hire from Medicaid-certified nursing facilities must be dated within 12 months immediately preceding the date of the application to take the test. Independent test candidates who are taking the competency test without an employment connection to a long-term care facility will be responsible to pay their own test fee.~~

D. Candidate Qualifications

The following list identifies those individuals who qualify for the state competency exam.

Note: Individuals listed on the LTCF Employment Clearance Registry₂ with a disqualification status due to ~~ana~~ substantiated administrative finding of abuse, neglect, misappropriation of resident property or a disqualifying criminal record in accordance with Ark. Code Ann. § 20-38-101 et seq.₂ shall not be eligible to take the competency examination.

1. Nursing assistants who were trained in **approved** non-facility programs (~~for example:~~ career colleges, Vo-Tech schools, ~~or~~ proprietary schools, ~~etc.~~) after January 1, 1989.
2. Nursing assistants who were trained in **approved** facility (nursing homes) programs after July 1, 1989.
3. RN or LPN students who have finished the basic nursing course (~~for example:~~ Introduction to Nursing, ~~or~~ Fundamentals of Nursing, ~~etc.~~). The individual must provide a copy of their school transcript, ~~or~~ documentation showing successful completion of the basic nursing course, ~~in order to~~ qualify to take the state competency test examination.
4. Registered nurses or licensed practical nurses that have had disciplinary action resulting in suspension, ~~revocation~~ revocation, or voluntary surrender of license due to disciplinary action₂ shall not be allowed an exemption to training or be allowed to challenge the state ~~competency~~ examination.
5. Home health aides who have met appropriate federal training ~~and/or~~

~~testing-examination~~ requirements for HHA certification. Verification must show completion of a minimum of seventy-five (75) hours training ~~and~~/or federal testing requirements as a home health aide. This provision does not apply to "personal care aides" as their training requirements of forty (40) hours does not meet the LTCF Nursing Assistant Training Program's ninety (90) hours or curriculum content.

6. Individuals from other states who can verify completion of a state approved geriatric nursing assistant training program but who were not tested and registered. (If registered in the other state, see Section VIII for reciprocity transfers without further ~~testing~~examination.) Verification of course completion rests with the individual and must be submitted to ~~OLTC~~the DHS designated contractor for ~~-~~approval to take the Arkansas competency ~~test~~examination.
7. Nursing assistants whose certification has become inactive based on the recertification requirements (see Section VIII, item D.). These individuals shall be required to be retested for recertification. Permission for retesting shall require an "admission slip" obtained from the ~~testing-examination~~ agency prior ~~to-the~~to the specified ~~test-examination~~ date.

All other persons trained in programs that have not received approval from the Department as a training provider shall not qualify and shall not be allowed to take the examination. Such programs may include hospitals, emergency medical technicians, medical assistant programs, personal care aides, correspondence courses, independent study, ~~or~~ on-the-job training, or ~~/~~ in-service training, as they are not acceptable in lieu of the approved training program.

State of Arkansas

As Engrossed: S3/10/21

93rd General Assembly

A Bill

Regular Session, 2021

SENATE BILL 153

By: Senators Gilmore, *B. Ballinger, Beckham, Bledsoe, B. Davis, Flipppo, T. Garner, K. Hammer, Hester, B. Johnson, D. Sullivan, C. Tucker, D. Wallace*

By: Representatives Ray, *Beaty Jr., M. Berry, Boyd, Brooks, Brown, Furman, Haak, McCollum, Underwood, Wardlaw*

For An Act To Be Entitled

AN ACT TO CREATE THE WORKFORCE EXPANSION ACT OF 2021;
AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE WORKFORCE EXPANSION ACT OF
2021.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4, Chapter 25, Subchapter 1, is amended
to add an additional section to read as follows:

4-25-110. Fee waiver for certain individuals.

(a) Notwithstanding any law to the contrary, the initial filing fees, permit fees, and licensing fees associated with the formation of a business in this state shall be waived for applicants who meet the requirements in the Workforce Expansion Act of 2021, § 17-4-101 et seq.

(b) Appropriate state entities shall:

(1) Publish notice of the fee waiver on:

(A) The website maintained by the appropriate state entity; and

(B) Any relevant forms that an applicant is required to complete; and

(2) Promulgate any necessary rules to implement this section.



1 SECTION 2. Arkansas Code Title 17, is amended to add an additional
2 chapter to read as follows:

3 Chapter 4 – Workforce Expansion Act of 2021

4
5 17-4-101. Title.

6 This chapter shall be known and may be cited as the "Workforce
7 Expansion Act of 2021".

8
9 17-4-102. Legislative findings – Purpose.

10 (a) The General Assembly finds that:

11 (1) Entrepreneurs and workers must pay various fees in order to
12 work in a government-regulated profession or occupation or to start a small
13 business in Arkansas;

14 (2) Families trying to break the cycle of government dependency
15 should not have to pay the state to earn a living; and

16 (3) Arkansas should waive initial fees associated with
17 occupational and professional regulations and the formation of a business for
18 low-income individuals.

19 (b) It is the purpose of this chapter to increase access to
20 professional and occupational licenses that would otherwise be cost
21 prohibitive for certain individuals.

22
23 17-4-103. Definitions.

24 As used in this chapter:

25 (1) "License" means a license, certificate, registration,
26 permit, or other form of authorization required by law or rule that is
27 required for an individual to engage in a particular occupation or
28 profession; and

29 (2)(A) "Licensing entity" means an office, board, commission,
30 department, council, bureau, or other agency of state government having
31 authority to license, certify, register, permit, or otherwise authorize an
32 individual to engage in a particular occupation or profession.

33 (B) "Licensing entity" does not include a political
34 subdivision of the state or any other local or regional governmental entity,
35 including without limitation a city of the first class, a city of the second
36 class, an incorporated town, or a county.

1 17-4-104. Fee waiver.

2 (a) Notwithstanding any law to the contrary, a licensing entity shall
3 not require an initial fee for individuals who are seeking to receive a
4 license in this state if the applicant:

5 (1) Is receiving assistance through the Arkansas Medicaid
6 Program, the Supplemental Nutrition Assistance Program, the Special
7 Supplemental Nutrition Program for Women, Infants, and Children, the
8 Temporary Assistance for Needy Families Program, or the Lifeline Assistance
9 Program;

10 (2) Was approved for unemployment within the last twelve (12)
11 months; or

12 (3) Has an income that does not exceed two hundred percent
13 (200%) of the federal poverty income guidelines.

14 (b) The waiver of the initial fee does not include fees for:

15 (1) A criminal background check;

16 (2) An examination or a test; or

17 (3) A medical or drug test.

18 (c) The Department of Human Services and the Division of Workforce
19 Services shall collaborate with a licensing entity concerning verification of
20 eligibility for public benefits for applicants, which may include obtaining a
21 signed consent form from the applicant.

22
23 17-4-105. Licensing entity duties.

24 A licensing entity shall:

25 (1) Publish notice of the fee waiver on:

26 (A) The website maintained by the licensing entity; and

27 (B) Any relevant forms that an applicant is required to
28 complete; and

29 (2) Promulgate any necessary rules to implement this chapter.
30

31 SECTION 3. EFFECTIVE DATE.

32 SECTIONS 1 and 2 of this act shall be effective on and after January 1,
33 2022.
34

35 /s/Gilmore

36 **APPROVED: 4/15/21**