

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

*As Engrossed: S2/24/05 H3/16/05*

# A Bill

SENATE BILL 424

5 By: Senators Horn, J. Bookout, Critcher, Wilkinson, Womack  
6 By: Representatives Pace, Borhauer  
7  
8

## For An Act To Be Entitled

9 AN ACT TO ESTABLISH QUALIFICATIONS AND OVERSIGHT  
10 REQUIREMENTS FOR MEDICATION ASSISTIVE PERSONS;  
11 AND FOR OTHER PURPOSES.  
12  
13

### Subtitle

14 TO ESTABLISH QUALIFICATIONS AND  
15 OVERSIGHT REQUIREMENTS FOR MEDICATION  
16 ASSISTIVE PERSONS.  
17  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

#### SECTION 1. Intent.

22 The General Assembly intends to:

23 (1) Authorize the use of medication assistive persons in  
24 designated health care facilities in order to facilitate improvement in the  
25 quality of patient care by creating more time for nurses to conduct patient  
26 assessments, evaluations, and treatments;  
27

28 (2) Ensure patients receive medication in the most efficient and  
29 timely manner; and

30 (3) Improve nursing staff retention during this time of severe  
31 nursing shortages across the state.  
32

33 SECTION 2. Arkansas Code § 17-87-203, is amended to read as follows:

34 17-87-203. Powers and duties.

35 The Arkansas State Board of Nursing shall have the following powers and  
36 responsibilities:



1 (1)(A) Promulgate whatever regulations it deems necessary for  
2 the implementation of this chapter.

3 (B) No regulation promulgated hereafter by the board shall  
4 be effective until reviewed by the Legislative Council and the House and  
5 Senate Interim Committees on Public Health, Welfare, and Labor or appropriate  
6 subcommittees thereof of the General Assembly;

7 (2) Cause the prosecution of persons violating this chapter;

8 (3) Keep a record of all its proceedings;

9 (4) Make an annual report to the Governor;

10 (5) Employ personnel necessary for carrying out its functions;

11 (6) Study, review, develop, and recommend role levels of  
12 technical classes of nursing service and practice to state and federal health  
13 agencies and to public and private administrative bodies;

14 (7) Fix the time for holding its regular meetings;

15 (8) Prescribe minimum standards and approve curricula for  
16 educational programs preparing persons for licensure as registered nurses,  
17 advanced practice nurses, registered nurse practitioner nurses, licensed  
18 practical nurses, and licensed psychiatric technician nurses;

19 (9) Prescribe minimum standards and approve curricula for  
20 educational programs preparing persons for certification as medication  
21 assistive persons;

22 ~~(9)~~(10) Provide for surveys of such programs at such times as it  
23 deems necessary or at the request of the schools;

24 ~~(10)~~(11) Approve programs that meet the requirements of this  
25 chapter;

26 ~~(11)~~(12) Deny or withdraw approval from educational programs for  
27 failure to meet prescribed standards;

28 (13) Examine, certify, and renew the certification of qualified  
29 applicants for medication assistive persons;

30 ~~(12)~~(14) Examine, license, and renew the licenses of qualified  
31 applicants for professional nursing, practical nursing, and psychiatric  
32 technician nursing;

33 ~~(13)~~(15) License and renew the licenses of qualified applicants  
34 for registered nurse practitioner nursing and advanced practice nursing;

35 ~~(14)~~(16) Grant certificates of prescriptive authority to  
36 qualified advanced practice nurses;

1           ~~(15)~~(17) Convene an advisory committee as provided for in this  
2 chapter to assist with oversight of prescriptive authority; ~~and~~

3           (18) Convene an advisory committee as provided for in this  
4 chapter to assist with oversight of medication assistive persons;

5           (19) Establish the maximum number of medication assistive  
6 persons who may be supervised by a nurse; and

7           ~~(16)~~(20) Conduct disciplinary proceedings as provided for in  
8 this chapter.

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10           SECTION 3. Arkansas Code § 17-87-306, is amended to read as follows:  
11           17-87-306. Fees.

12           The Arkansas State Board of Nursing shall establish and collect fees  
13 and penalties for services relating to certification, examination, licensing,  
14 endorsement, certification for prescriptive authority, temporary permits,  
15 license renewal, certification renewal, and other reasonable services as  
16 determined by the board.

17  
18           SECTION 4. Arkansas Code Title 17, Chapter 87 is amended to add an  
19 additional subchapter to read as follows:

20           17-87-701. Definitions.

21           As used in this subchapter:

22           (1) "Board" means the Arkansas State Board of Nursing;

23           (2) "Designated facility" means a type of facility determined by  
24 the board as an environment in which medication assistive persons may serve  
25 in accordance with the requirements of this subchapter and regulations  
26 promulgated by the board;

27           (3) "Medication assistive person" means a person who is  
28 certified by the board to administer certain nonprescription and legend drugs  
29 in designated facilities; and

30           (4) "Supervision" means the active oversight of patient care  
31 services while on the premises of a designated facility in a manner defined  
32 by the board.

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34           17-87-702. Certificate required.

35           In order to safeguard life and health, any person serving or offering  
36 to serve as a medication assistive person shall:

- 1           (1) Submit evidence that he or she is qualified to so serve; and
- 2           (2) Be certified as provided in this subchapter.

3

4           17-87-703. Designated facilities.

5           (a) The Arkansas State Board of Nursing shall designate the types of  
6 facilities that may use medication assistive persons.

7           (b)(1) Designated facilities may not be required to use medication  
8 assistive persons.

9           (2) However, if a designated facility elects to use medication  
10 assistive personnel, the facility shall notify the board in a manner  
11 prescribed by the board.

12

13           17-87-704. Qualifications.

14           (a) In order to be certified as a medication assistive person, an  
15 applicant shall submit to the Arkansas State Board of Nursing written  
16 evidence, verified by oath, that the applicant:

17           (1) Is currently listed in good standing on the state's  
18 certified nurse aide registry;

19           (2) Has maintained registration on the state's certified nurse  
20 aide registry continuously for a minimum of one (1) year;

21           (3) Has completed at least one (1) continuous year of full-time  
22 experience as a certified nurse aide in this state;

23           (4) Is currently employed at a designated facility;

24           (5) Has a high school diploma or the equivalent;

25           (6) Has successfully completed a literacy and reading  
26 comprehension screening process approved by the board;

27           (7) Has successfully completed a medication assistive person  
28 training course of not less than one hundred (100) hours approved by the  
29 board; and

30           (8) Has successfully passed an examination on subjects the board  
31 determines.

32           (b) The board may issue a certification as a medication assistive  
33 person by endorsement to an applicant who has been licensed or certified as a  
34 medication assistive person under the laws of another state or territory, if:

35           (1) In the opinion of the board, the applicant meets the  
36 qualifications of medication assistive persons in this state; and

1           (2) The board recommends certification.

2           (c) Any person holding a certification as a medication assistive  
3 person shall have the right to use the title "medication assistive person"  
4 and the abbreviation "M.A.P.".

5  
6           17-87-705. Scope of work.

7           (a)(1) A medication assistive person may perform the delegated nursing  
8 function of medication administration and related tasks in accordance with  
9 rules promulgated by the Arkansas State Board of Nursing.

10           (2) A medication assistive person shall perform medication  
11 administration and related tasks only:

12                   (A) At a designated facility; and

13                   (B) Under the supervision of a licensed nurse.

14           (3)(A) Medication administration shall be limited to the  
15 administration of nonprescription and legend drugs ordered by an authorized  
16 prescriber by the following methods:

17                           (i) Orally;

18                           (ii) Topically;

19                           (iii) Drops for eye, ear, or nose;

20                           (iv) Vaginally;

21                           (v) Rectally;

22                           (vi) Transdermally; and

23                           (vii) Via oral inhaler.

24           (B) Medication administration by a medication assistive  
25 person shall not include controlled substances.

26           (b) A medication assistive person shall not:

27                   (1) Receive, have access to, or administer any controlled  
28 substance;

29                   (2) Administer parenteral, enteral, or injectable medications;

30                   (3) Administer any substances by nasogastric or gastrostomy  
31 tubes;

32                   (4) Calculate drug dosages;

33                   (5) Destroy medication;

34                   (6) Receive orders, either in writing or verbally, for new or  
35 changed medications;

36                   (7) Transcribe orders from the medical record;

- 1           (8) Order initial medications;  
2           (9) Evaluate medication error reports;  
3           (10) Perform treatments;  
4           (11) Conduct patient assessments or evaluations; or  
5           (12) Engage in patient teaching activities.

6  
7           17-87-706. Renewal of certifications.

8           (a)(1) The Arkansas State Board of Nursing shall prescribe the  
9 procedure for the cyclical renewal of medication assistive person  
10 certifications.

11           (2) In each case, the board shall mail a notification for  
12 renewal to the medication assistive person at least thirty (30) days before  
13 the expiration date of the certification.

14           (b)(1) Upon receipt of the renewal application and the fee, the board  
15 shall verify the accuracy of the application.

16           (2)(A) If the board finds the application to be accurate, the  
17 board shall issue a certificate of renewal to the applicant.

18           (B) As a condition of certification renewal, a medication  
19 assistive person shall be:

20                   (i) Currently listed in good standing on the state's  
21 certified nurse aide registry; and

22                   (ii) Required to satisfactorily complete at least  
23 eight (8) hours of continuing medication education course work as required by  
24 the board.

25           (c) The renewal shall render the holder of the certificate a legal  
26 provider of medication assistive person services for the period stated in the  
27 certificate of renewal.

28           (d) Any medication assistive person who allows his or her  
29 certification to lapse by failing to renew the certification as provided in  
30 this section may be reinstated by the board on:

31                   (1) Payment of the renewal fee plus a penalty; and

32                   (2) Submission of evidence that the person currently meets the  
33 requirements to serve as a medication assistive person.

34           (e) Any person providing services as a medication assistive person  
35 during the time his or her certification has lapsed shall be considered to be  
36 providing services illegally and shall be subject to the penalties provided

1 for violations of this subchapter.

2  
3 17-87-707. Disciplinary actions.

4 (a) The Arkansas State Board of Nursing shall have sole authority to  
5 deny, suspend, revoke, or limit any medication assistive person certificate  
6 issued by the board or applied for in accordance with the provisions of this  
7 subchapter or to otherwise discipline a certificate holder upon proof that  
8 the person:

9 (1) Has been found guilty of or pleads guilty or nolo contendere  
10 to:

11 (A) Fraud or deceit in procuring or attempting to procure  
12 a medication assistive person certificate;

13 (B) Providing services as a medication assistive person  
14 without a valid certificate; or

15 (C) Committing a crime of moral turpitude;

16 (2) Is unfit or incompetent by reason of negligence, habits, or  
17 other causes;

18 (3) Is habitually intemperate or is addicted to the use of  
19 habit-forming drugs;

20 (4) Is mentally incompetent;

21 (5) Is guilty of unprofessional conduct;

22 (6) Has had a license, certificate, or registration revoked or  
23 suspended;

24 (7) Has been placed on probation or under disciplinary order in  
25 any jurisdiction in any jurisdiction;

26 (8) Has voluntarily surrendered a license, certification, or  
27 registration and has not been reinstated in any jurisdiction; or

28 (9) Has willfully or repeatedly violated any of the provisions  
29 of this chapter.

30 (b) The board shall refuse to issue or shall revoke the certificate of  
31 any person who would be disqualified from employment under the provisions of  
32 § 20-33-205.

33 (c) Proceedings under this section shall be conducted in accordance  
34 with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

35  
36 17-87-708. Penalty.

1 (a)(1) It shall be a misdemeanor for any person to:

2 (A) Sell or fraudulently obtain or furnish any medication  
3 assistive person certificate, renewal, or record or aid or abet in any such  
4 sale or fraud;

5 (B) Serve as a medication assistive person under cover of  
6 any certificate or record illegally or fraudulently obtained or signed or  
7 issued unlawfully or under fraudulent representation;

8 (C) Serve as a medication assistive person unless  
9 certified by the Arkansas State Board of Nursing;

10 (D) Use in connection with his or her name any of the  
11 following titles, names, or initials, if the user is not properly certified  
12 under this chapter:

13 (i) Medication assistive person;

14 (ii) M.A.P.;

15 (iii) Medication aide;

16 (iv) Medication technician;

17 (v) Medication assistant;

18 (vi) Certified medication aide;

19 (vii) C.M.A.; or

20 (viii) Any other name, title, or initials that would  
21 cause a reasonable person to believe the user is certified under this  
22 chapter;

23 (E) Serve as a medication assistive person during the time  
24 his or her certification is suspended;

25 (F) Conduct an education program for the preparation of  
26 medication assistive persons unless the program has been approved by the  
27 board; or

28 (G) Otherwise violate any provisions of this subchapter.

29 (2)(A) A misdemeanor under subdivision (a)(1) of this section  
30 shall be punishable by a fine of not less than twenty-five dollars (\$25.00)  
31 or more than five hundred dollars (\$500).

32 (B) Each subsequent offense shall be punishable by a fine  
33 of not more than five hundred dollars (\$500) or by imprisonment of not more  
34 than thirty (30) days, or by both a fine and imprisonment.

35 (b)(1) After providing notice and a hearing, the board may levy civil  
36 penalties in an amount not to exceed one thousand dollars (\$1,000) against a



1 person or entity for each violation of this subchapter or regulations  
2 promulgated under this chapter.

3 (2) Each day of violation shall be a separate offense.

4 (c) Unless a penalty assessed under this section is paid within  
5 fifteen (15) calendar days following the date for an appeal from the order,  
6 the board may file suit in Pulaski County Circuit Court to obtain a judgment  
7 for the amount of penalty not paid.

8 (d) The penalties permitted in this section shall be in addition to  
9 other penalties that may be imposed by the board under this chapter.

10  
11 17-87-709. Injunction.

12 (a) The Pulaski County Circuit Court is vested with jurisdiction and  
13 power to enjoin the unlawful provision of medication assistive person  
14 services in any county of the State of Arkansas in a proceeding initiated by  
15 the Arkansas State Board of Nursing, any member of the board, or any citizen  
16 in this state.

17 (b)(1) The issuance of an injunction shall not relieve a person from  
18 criminal prosecution for violation of the provisions of this chapter.

19 (2) The remedy of injunction is to be in addition to liability  
20 for criminal prosecution.

21  
22 17-87-710. Medication Assistive Person Advisory Committee.

23 (a)(1) The Medication Assistive Person Advisory Committee is created  
24 as an advisory committee to the Arkansas State Board of Nursing.

25 (2) The committee shall assist the board in implementing the  
26 provisions of this subchapter regarding medication assistive persons.

27 (b) The board shall appoint five (5) members to be approved by the  
28 Governor who have the following qualifications:

29 (1) Two (2) members shall be certified medication assistive  
30 persons;

31 (2) One (1) member shall be a licensed nursing home  
32 administrator who has worked in that capacity for at least five (5) years;

33 (3) One (1) member shall be a registered nurse who has been in a  
34 practice using certified nurse aides for at least five (5) years; and

35 (4) One (1) member shall be a lay person representing the  
36 interest of consumers of health care services.

1 (c) Members shall serve three-year terms.

2 (d) The board may remove any committee member after notice and hearing  
3 for incapacity, incompetence, neglect of duty, or malfeasance in office.

4 (e) The members of the committee shall serve without compensation but  
5 may receive expense reimbursement in accordance with § 25-16-902.

6  
7 17-87-711. Applicability of subchapter.

8 Nothing in this subchapter relieves a nurse from the responsibility of  
9 assessing each patient daily.

10  
11 SECTION 5. Arkansas Code § 20-10-1401 is amended to read as follows:  
12 20-10-1401. Definitions.

13 For purposes of this subchapter:

14 (1) "Day shift" means the period of 7:00 a.m. to 3:00 p.m.;

15 (2)(A) "Direct-care staff" means any licensed or certified  
16 nursing staff who provides direct, hands-on care to residents in a nursing  
17 facility.

18 (B) "Direct-care staff" shall not include:

19 (i) ~~therapy~~ Therapy personnel or personnel listed in  
20 § 20-10-1404; or

21 (ii) Medication assistive persons as defined in §  
22 17-87-701;

23 (3) "Evening shift" means the period of 3:00 p.m. to 11:00 p.m.;

24 (4) "Midnight census" means the number of patients occupying  
25 nursing home beds in a nursing facility at midnight of each day;

26 (5) "Night shift" means the period of 11:00 p.m. to 7:00 a.m.;

27 and  
28 (6)(A) "Nursing facility or nursing home" means any buildings,  
29 structure, agency, institution, or other place for the reception,  
30 accommodation, board, care, or treatment of more than three (3) unrelated  
31 individuals, who, because of physical or mental infirmity, are unable to  
32 sufficiently or properly care for themselves, and for which reception,  
33 accommodation, board, care, and treatment a charge is made.

34 (B) Provided, the term "nursing facility or nursing home"  
35 shall not include the offices of private physicians and surgeons, boarding  
36 homes, residential care facilities, intermediate care facilities for the

1 mentally retarded, hospitals, institutions operated by the federal government  
2 or licensed by the Division of Developmental Disabilities Services, or any  
3 facility which is conducted by and for those who rely exclusively upon  
4 treatment by prayer alone for healing in accordance with the tenets or  
5 practices of any recognized religious denomination.

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7 */s/ Horn, et al*  
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