

ARKANSAS STATE MEDICAL BOARD



ARKANSAS MEDICAL PRACTICES ACTS & REGULATIONS

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ARKANSAS MEDICAL PRACTICES ACT AS AMENDED

DISCLAIMER: The Arkansas Medical Practices Act is a part of the Arkansas Statutes. The following is a copy of the present Medical Practices Act, Occupational Therapy Act, Respiratory Care Act, and Physician Assistant Act, as amended. In the event of typographical error or error of omission, the original statute remains the authority. There are other laws, both state and federal, that impact the practice of medicine. Lack of space prevents the printing of all statutes and court decisions. Rev.12/2001

MEDICAL PROFESSIONS GENERAL PROVISIONS

17-80-101. Filing and compilation of licensing information.

- (a) (1) It is the duty of the secretaries of the Arkansas State Medical Board and the Arkansas State Board of Chiropractic Examiners to file with the Secretary of State, within one (1) week of the issuance of a license:
 - (A) The name of the person licensed;
 - (B) The date of license;
 - (C) The last known post office address of the person licensed; and
 - (D) Whether the license was granted:
 - (i) On examination before the board;
 - (ii) By reciprocity and, if so, the name of the state which issued the license; or
 - (iii) On a diploma and, if so, the name of the school or medical college which issued the diploma.
- (2) This information shall be verified by the affidavit of the secretary of the respective boards.
- (b) The Secretary of State shall compile the information filed pursuant to subsection (a) of this section in a well-bound book to be kept by him for that purpose. He shall from time to time, as additional names are filed with him by the respective boards, record the names in the book, together with the other information furnished by the boards.
- (c) The Director of the Department of Health shall report the deaths of all persons licensed by the boards named in subsection (a) of this section to the Secretary of State within a reasonable time after the information has been received in his office. The Secretary of State shall thereupon note after the name of the decedent the fact of his death and the date thereof.
- (d) Any violation of the provisions of this section shall constitute a misdemeanor and be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment not exceeding ten (10) days.

17-80-102. Subpoena power of boards - Enforcement.

- (a) (1) The licensing and disciplining boards of the professions of the healing arts provided in this subtitle shall have the power to issue subpoenas and bring before the board as a witness any person in this state.
- (2) The secretary or the investigative officer of the board shall issue a subpoena upon the request of any party to a proceeding pending before the board or at the request of the board.
- (3) The writ shall be directed to the sheriff of the county where the witness resides or may be found.
- (4) The writ may require the witness to bring with him any book, writing, or other thing under his control which he is bound by law to produce in evidence.
- (5) Service of the writ shall be in the manner as now provided by statute for the service of subpoenas in civil cases.
- (b) (1) A witness who has been served by subpoena in the manner provided by law and who shall have been paid or tendered the legal fees for travel and attendance as provided by law shall be obligated to attend for examination of the trial of the cause pending before the board.
- (2) In the event a witness shall have been served with subpoenas as herein provided and fails to attend the hearing in obedience to the subpoena, the board may apply to the circuit court of the county wherein the board is having its meeting for an order causing the arrest of the witness and directing that the witness be brought before the court.
- (3) The court shall have the power to punish the disobedient witness for contempt as now provided by law in the trial of civil cases.
- (4) The disobedient witness shall be liable in damages for nonattendance to the trial or hearing as provided by Rev. Stat., ch. 158, Sec. 9.

17-80-103. Immunity of board members.

No member of a board, or any individual acting on behalf of the board, of any profession or occupation classified under the laws of the State of Arkansas as a profession of the healing arts shall be liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or otherwise for any action taken or recommendation made within the scope of the functions of the board if the board member or individual acting on behalf of the board acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him after a reasonable effort is made to obtain the facts on which the action is taken or recommendation is made.

17-80-104. Continuing education requirements.

- (a) The regulatory boards of the professions or occupations classified by the laws of the State of Arkansas as professions of the healing arts and for whom the General Assembly of the State of Arkansas has heretofore established regulatory boards empowered to license persons who practice under conditions of licensure authorized by the General Assembly are authorized to adopt regulations required the continuing education of the persons licensed by the board.
- (b) All regulations establishing requirements for continuing education under the provisions of this section shall be adopted in the manner and method set out in the Arkansas

Administrative Procedure Act, Sec. 25-15-201 et seq., for the adoption of rules and regulations.

- (c) The regulatory boards shall establish by regulation the number of hours of credit and the manner and methods of obtaining the hours of credit by its licensee.
- (d) In the event a licensee of the board does not complete the continuing education established by the board under the provisions of this section, the board is empowered to deny renewal of the license held by the licensee or after proper hearing take such action as it considers just and proper to compel compliance with its regulations requiring continuing education.

17-80-105. Professional review under federal act.

- (a) The State of Arkansas hereby elects the early options in provision provided in Public Law 99-660, for all health care entities subject to that act.
- (b) This section and powers granted shall be liberally and broadly construed so as to effectuate the legislative intent.

17-80-106. Investigations and inspections of alleged wrongdoing.

- (a) The Arkansas State Medical Board, Arkansas State Board of Dental Examiners, the Arkansas State Board of Nursing, the Veterinary Medical Examining Board and the Arkansas State Podiatry Examining Board are authorized to utilize as its employees, as the sole investigators for the purposes described in this section, the investigators and inspectors of the Division of Pharmacy Services and Drug Control of the Department of Health.
- (b) The Department of Health is directed to make investigators and inspectors of the Division of Pharmacy Services and Drug Control available for such purposes and for as long as they may conduct investigations and inspections of alleged wrong doing of those individuals licensed or permitted by the Arkansas State Medical Board, Arkansas State Board of Dental Examiners, the Arkansas State Board of Nursing, the Veterinary Medical Examining Board, and the Arkansas State Podiatry Examining Board.
- (c) The investigators, upon written request of a person licensed by the respective licensing board and with authorization by the Director of the Division of Pharmacy Services and Drug Control pursuant to appropriate authority from the board, may investigate, inspect, and make copies of medical records, dental records, nursing records, drug orders, prescriptions, veterinary records, and podiatry records, wherever located, of all persons licensed by the medical, dental, nursing, veterinary and podiatry boards in order for the respective licensing board to determine whether or not any persons have:
 - (1) Violated the laws of the State of Arkansas or the United States, respecting the prescribing, administering, and use of narcotics and potentially dangerous drugs; or
 - (2) Practiced their profession in such a way as to endanger the general health and welfare of the public; or
 - (3) Otherwise violated the practice act or rules and regulations of that respective board.

- (d) Copies of records, prescriptions, or orders shall not become public record by reason of their use in disciplinary proceedings held by the licensing board, nor shall the patients' or licensed medical professions' property rights to said prescriptions, orders or records be extinguished by such use.
- (e)
 - (1) The investigators may obtain copies of said prescriptions, orders, and records as admissible evidence without the necessity of the issuance of an administrative inspection warrant or search warrant as authorized by Sec. 5-64-502, as amended.
 - (2) Said investigators must have in their possession, however, an authorization by the Director of the Division of Pharmacy Services and Drug Control.
 - (3) The licensee may refuse the request of the investigator and not tender copies of the records.
 - (4)
 - (A) If prescriptions, orders, or records are to be used in criminal proceedings they shall be obtained by investigators only on an administrative inspection warrant.
 - (B) No inspection warrant is necessary where prescriptions, orders, or records are to be used solely for board disciplinary purposes.
- (f) Each of the boards will have the power, in lieu of a letter of authority, to issue to the investigators a subpoena to obtain copies of the records referred to herein, and the investigators will have the authority to serve said subpoena and collect said records.
- (g) In the event a witness served with the subpoena fails to honor the subpoena, then the particular board issuing the subpoena may apply to the circuit court for remedies as provided in the Arkansas Rules of Civil Procedure. The court shall have the power to punish the disobedient witness for contempt as now provided by law in the trial of civil cases.
- (h) The Division of Pharmacy Services and Drug Control of the Arkansas Department of Health shall have the authority to collect for:
 - (1) Travel expenses at the level for state employees; and
 - (2) Other out-of-pocket costs, incurred by the division in carrying out its investigative task from the individual board utilizing the services delineated herein.

17-80-107. "Physician" defined.

For the purpose of the "Good Samaritan law", Sec. 17-95-101, and any other law of this state which takes effect on or after January 1, 1994, the term "physician" shall mean a person licensed by the Arkansas State Medical Board, the Arkansas State Board of Chiropractic Examiners, or the State Podiatry Examining Board.

17-80-108. Disciplinary or corrective measures.

- (a) Any assistance rendered with any execution carried out pursuant to Sec. 5-4-617 by any licensed health care professional, including, but not limited to, physicians, nurses, and pharmacists, shall not be cause for any disciplinary or corrective measures by any board or commission created by the state or governed by state law which oversees or regulates the practice of health care professionals, including, but not limited to, the Arkansas State Medical Board, the Arkansas State Board of Nursing, and the Arkansas State Board of Pharmacy.
- (b) The infliction of the punishment of death by administration of the required lethal substances in the manner required by

Sec. 5-4-617 shall not be construed to be the practice of medicine.

17-80-109. Definitions.

As used in this act:

- (1) "Healing arts" means the practice of any type of profession requiring special education and skill that promotes healing of the human body or that relates to the prevention of illness or disease; and
- (2) "Health care service" means that service offered or provided relating to the prevention, cure or treatment of illness, injury or disease and includes services performed by healing arts practitioners.

History. Acts 1999, No. 338, § 1.

17-80-110. Using "Doctor" as title in documentation.

In any written document or electronically transmitted document in connection with provision of a health care service, no person shall use the title "Doctor", unless that title is authorized under § 17-1-101 et seq. of the Arkansas Code, in which case that person shall use the title in accordance with the statutes and regulations governing the particular health care profession and is licensed in that profession under § 17-1-101 et seq.

History. Acts 1999, No. 338, § 2.

17-80-111. Restrictions on "Doctor" as title in advertising.

No person shall advertise or allow oneself to be advertised by the title "Doctor" in association with the practice of one of the healing arts, except in the practice of one of the health care professions regulated under § 17-1-101 et seq. in which case that person shall use the title in accordance with the statutes and regulations governing the particular health care profession or unless that person has been granted a doctoral degree in any healing arts profession and is licensed in that profession under § 17-1-101 et seq.

History. Acts 1999, No. 338, § 3.

17-80-112. Use of "Doctor" as title in provision of health care services.

In connection with the provision of health care services, no person shall call oneself or allow oneself to be called by the title "Doctor", except in the practice of one of the health care professions regulated under § 17-1-101 et seq. in which case the person shall use the title in accordance with the statutes and regulations governing the particular health care profession.

History. Acts 1999, No. 338, § 4.

17-80-113. Authorized use of "Doctor" as title.

This act shall not be construed to authorize any person to use the title "Doctor", unless that title is authorized under § 17-1-101 et seq. of the Arkansas Code, in which case that person shall use the title in accordance with the statutes and regulations governing the particular health care profession or unless that person has been granted a doctoral degree in any healing arts profession and is licensed in that profession under § 17-1-101 et seq.

History. Acts 1999, No. 338, § 5.

SUB-CHAPTER 2 - IMPAIRED PHYSICIAN AND DENTIST TREATMENT ACT

17-80-201. Title.

This subchapter shall be known as the "Impaired Physician and Dentist Treatment Act".

17-80-202. Purpose.

The purpose of this subchapter is to provide for the identification and treatment of physicians and dentists licensed under the Arkansas Medical Practices Act, Sec. 17-95-210 et seq., who suffer from impairment, in order to promote the public health and safety and to ensure the continued availability of the skills of highly trained medical and dental professionals for the benefit of the public.

17-80-203. Definitions.

For purposes of this subchapter:

- (1) "Board" shall mean the Arkansas State Medical Board with reference to physicians and the Arkansas State Board of Dental Examiners with reference to dentists;
- (2) "Impaired" or "impairment" shall mean the presence of the diseases of alcoholism, drug abuse, or mental illness;
- (3) "Impaired physician program" shall mean the Arkansas Medical Society-sponsored program for the detection, intervention and monitoring of impaired physicians;
- (4) "Impaired dentist program" shall mean the Arkansas State Dental Association-sponsored program for the detection, intervention and monitoring of impaired dentists;
- (5) "Physicians' health committee" shall mean a physician committee of the Arkansas Medical Society composed of physicians who have expertise in the area of alcoholism, drug abuse, or mental illness, and that has been designated by the Arkansas Medical Society to perform any and all activities set forth in subdivision (3) of the section;
- (6) "Dentists' health committee" shall mean a dentist committee of the Arkansas State Dental Association composed of dentists who have expertise in the area of alcoholism, drug abuse, or mental illness, and that has been designated by the Arkansas State Dental Association to perform any and all activities set forth in subdivision (4) of this section;
- (7) (A) "Professional incompetence" shall mean the inability or failure of a physician or dentist to practice his respective professions with reasonable skill and safety.
(B) Impairment in and of itself shall not give rise to a presumption of professional incompetence; and
- (8) "Treatment program" shall mean a plan of care and rehabilitation services provided by those organizations and persons authorized to provide such services for impaired physicians and dentists taking part in the programs provided under this subchapter.

17-80-204. Authority.

The Arkansas Medical Society shall have the authority to establish a physicians' health committee and the Arkansas State Dental Association shall have the authority to establish a dentists' health committee to undertake the functions and responsibilities to carry out the purposes of this subchapter and may include any of the following:

- (1) Contracting with providers of treatment programs;
- (2) Receiving and evaluating reports of suspected impairment from any source;
- (3) Intervening in cases of verified impairment;

- (4) Referring impaired physicians or dentists to treatment programs;
- (5) Monitoring the treatment and rehabilitation of impaired physicians or dentists;
- (6) Providing post-treatment monitoring and support of rehabilitated impaired physicians and dentists; and
- (7) Performing such other activities as the committees deem necessary to accomplish the purposes of this subchapter.

17-80-205. Procedures.

The physicians' health committee and the dentists' health committee shall develop procedures for:

- (1) Immediate reporting to the appropriate board of the names and results of any contact or investigation regarding any impaired physician or impaired dentist who is believed to constitute an imminent danger to the public or to himself or herself;
- (2) Reporting to the appropriate board in a timely fashion any impaired physician or any impaired dentist who refuses to cooperate with the respective committee, refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment, and who, in the opinion of the respective committee, exhibits professional incompetence; and
- (3) Informing each participant of the impaired physician program or the impaired dentist program of the program procedures, responsibilities of program participants, and the possible consequences of noncompliance with the program.

17-80-206. Evaluations.

- (a) If the Arkansas State Medical Board has reason to believe that a physician is impaired or if the Arkansas State Board of Dental Examiners has reason to believe that a dentist is impaired, either board may cause an evaluation of such physician or dentist to be conducted by the appropriate committee for the purpose of determining if there is an impairment.
- (b) The physicians' health committee or the dentists' health committee shall report the findings of its evaluation to its respective board.

17-80-207. Request for restricted license.

- (a) (1) An impaired physician or an impaired dentist may request in writing to the appropriate board for a restriction of his license to practice.
- (2) The board may grant such request for restriction and shall have authority to attach conditions to the licensure of the physician to practice medicine or the dentist to practice dentistry within specified limitations.
- (b) Removal of a voluntary restriction on licensure to practice medicine or dentistry shall be subject to the procedure for reinstatement of licensure pursuant to the Arkansas Medical Practices Act, Sec. 17-95-201 et seq., or the Arkansas Dental Practices Act, Sec. 17-82-101 et seq.

17-80-208. Confidentiality of records.

- (a) (1) Notwithstanding any provision of state law, records of the physicians' health committee pertaining to an impaired physician and all records of the dentists' health committee pertaining to an impaired dentist

shall be kept confidential and are not subject to discovery or subpoena.

- (2) No person in attendance at any meeting of the physicians' health committee or the dentists' health committee shall be required to testify as to any committee discussions or proceedings.
- (b) However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such action merely because they were presented during the proceedings of the committee, nor shall any person who testifies before the committee or who is a member of the committee be prevented from testifying as to matters within his knowledge, but the witness shall not be asked about his testimony before the committee or about opinions formed by him as a result of the committee hearings.

17-80-209. Participation in treatment program.

An impaired physician who is participating in or has successfully completed a treatment program pursuant to this subchapter shall not be excluded from any hospital staff solely because of such participation.

17-80-210. Limitation on liability.

- (a) Notwithstanding any other provisions of law, the Arkansas Medical Society, the Arkansas Osteopathic Medical Association, the physicians' health committee and members thereof, the Arkansas State Dental Association, and the dentists' health committee and members thereof shall not be held liable in damages to any person for any acts, omissions, or recommendations made by them in good faith while acting within the scope of their responsibilities pursuant to this subchapter.
- (b) No person who in good faith and without malice make a report to the physicians' health committee or the dentists' health committee shall be liable for damages to any person.

History. Acts 2001, No. 929, § 1.

OSTEOPATHS

17-91-101. Osteopathic Physician Licensing requirements.

- (a) The Arkansas State Medical Board shall accept for licensure by examination any person who:
 - (1) Is at least 21 years of age;
 - (2) Is a citizen of the United States;
 - (3) Is of good moral character;
 - (4) Has not been guilty of acts constituting unprofessional conduct as defined in the Arkansas Medical Practices Act, Sec. 17-95-201 et seq.;
 - (5) Is a graduate of an Osteopathic College of Medicine whose course of study has been recognized by the Department of Education of the American Osteopathic Association; and
 - (6) (A) Has completed a one-year internship in a hospital approved by the American Medical Association; or
(B) Has completed a one-year internship in a hospital approved by the American Osteopathic Association.

- (b) Applicant for such licensure shall pay the fees required by the Arkansas Medical Practices Act, Sec. 17-95-201 et. seq.

History. Acts 2001, No. 929, § 2.

17-91-102. Examination.

- (a) The examination given the applicants shall be the same examination given to all other applicants for medical licensure, and the examination shall be given at the same time and place as the examination given the other applicants and shall be graded as all other examinations.
- (b) NBOME is the National Board of Osteopathic Medical Examiner which develops examinations for licensure of Osteopathic Physicians.

History. Acts 2001, No. 929, § 3

17-91-103. Effect of licensing.

- (a) The license issued to a person meeting the qualifications set out in this chapter and successfully passing the examination shall be the same license to practice medicine and surgery in the State of Arkansas as is regularly issued by the Arkansas State Medical Board and shall entitle the holder thereof to practice medicine and surgery in the State of Arkansas.
- (b) The holder of the license shall be subject to all the provisions of the Arkansas Medical Practices Act, Sec. 17-95-201 et seq., including the payment of the fees set out therein.
- (c) Any reference to “medical doctor,” or “physician” shall be deemed to include a Doctor of Osteopathy or D.O., or Osteopathic Physician unless any of those terms are excluded.

History. Acts 2001, No. 929, § 4

PHYSICIANS AND SURGEONS

SUB-CHAPTER 1- GENERAL PROVISIONS

17-95-101. “Good Samaritan” law.

- (a) Any person licensed as a physician or surgeon under the laws of the State of Arkansas or any other person, who, in good faith, lends emergency care or assistance without compensation at the place of an emergency or accident, and who was acting as a reasonable and prudent person would have acted under the circumstances present at the scene at the time the services were rendered, shall not be liable for any civil damages for acts or omissions performed in good faith.
- (b) Any person who is not a physician, surgeon, nurse, or other person trained or skilled in the treatment of medical emergencies who is present at an emergency or accident scene, and who:
 - (1) Believes that the life, health, and safety of an injured person or a person who is under imminent threat of danger could be aided by reasonable and accessible emergency procedures under the circumstances existing at the scene thereof;

- (2) Proceeds to lend emergency assistance or service in a manner reasonably calculated to lessen or remove the immediate threat to the life, health, or safety of such person;
- (3) Lends only such emergency care or assistance as a reasonable and prudent person concerned for the immediate protection of the life, health, and safety of the person for whom the services were rendered would lend under the circumstances, shall not be held liable in civil damages in any action in this state for any harm, injury, or death of any such person so long as the person rendering such services acted in good faith and was acting as a reasonable and prudent person would have acted under the circumstances present at the scene at the time the services were rendered.
- (c) No physician or surgeon who in good faith and without compensation renders voluntary emergency medical assistance to a participant in a school athletic event or contest at the site thereof or during transportation to a health care facility for an injury suffered in the course of the event or contest shall be liable for any civil damages as a result of any acts or omissions by that physician or surgeon in rendering the emergency medical care. The immunity granted by this subsection shall not apply in the event of an act or omission constituting gross negligence.
- (d) For the purposes of this section and any other law of this state which takes effect on or after January 1, 1994, the term “physician” shall mean a person licensed by the Arkansas State Medical Board, the Arkansas State Board of Chiropractic Examiners, or the State Podiatry Examining Board.

17-95-102. Legend drugs.

- (a) A dispensing physician is a physician licensed under the Arkansas Medical Practices Act, Sec. 17-95-201 et seq., who purchases legend drugs to be dispensed to his or her patients for the patients’ personal use and administration outside the physician’s office.
- (b) This section shall not apply to physicians who only dispense drugs in injectable form unless they are controlled substances, in which case the section shall fully apply.
- (c) The dispensing physician shall:
 - (1) Personally dispense legend drugs and the dispensing of such drugs may not be delegated;
 - (2) Keep records of all receipts and distributions of legend drugs. The records shall be subject to inspection by the proper enforcement authority and shall be readily accessible for inspection and maintained in a central registry;
 - (3) Label legend drugs with the following information: patient’s name and address; prescribing physician’s address and narcotic registry number issued by the Drug Enforcement Administration of the United States Department of Justice; date of dispensing; directions and cautionary statements, if any, as required by law.
- (d) No physician licensed under the Arkansas Medical Practices Act, Sec. 17-95-201 et seq., shall dispense legend drugs without prior approval by the Arkansas State Medical Board after application to the board and on the showing of need. Licensed physicians who were dispensing in the ordinary course of their practice for the twelve (12) months immediately prior to July 4, 1983, shall be exempt from the requirements of this subsection.

- (e) The Arkansas State Medical Board shall enforce the provisions of this section and is authorized and directed to adopt regulations to carry out its purpose.

17-95-103. Notice of malpractice claims.

- (a) Every physician licensed to practice medicine and surgery in the State of Arkansas, within ten (10) days after the receipt or notification of a claim or filing of a lawsuit against him charging him with medical malpractice, shall notify the Arkansas State Medical Board of the claim or lawsuit. The notice shall be sent by registered letter to the office of the board and upon such forms as may be approved by the board. If the malpractice claim is in the form of a complaint in a filed law suit, a copy of the complaint shall be furnished to the board along with the notification required by this section.
- (b) The reports required to be filed by physicians under this section shall be privileged and shall not be open for public inspection except upon order of a court of competent jurisdiction.
- (c) The Arkansas State Medical Board is authorized and directed to prepare and adopt such regulations as are necessary and properly assure compliance with the provisions of this section.

17-95-104. Hospital's duty to report physician misconduct.

- (a) (1) A hospital licensed by or under the jurisdiction of the State of Arkansas, within sixty (60) days after taking such action as described in this section, shall report in writing to the Arkansas State Medical Board the name of any member of the medical staff or any other physician practicing in the hospital whose hospital privileges have been revoked, limited, or terminated for any cause, including resignation, together with pertinent information relating to the action.
- (2) The hospital shall also report any other formal disciplinary action concerning any such physician taken by the hospital upon recommendation of the medical staff relating to professional ethics, medical incompetence, moral turpitude, or drug or alcohol abuse.
- (b) The filing of a report with the board pursuant to this section, investigation by the board, or any disposition by the board shall not, in and of itself, preclude any action by a hospital or other health care facility or professional society comprised primarily of physicians to suspend, restrict, or revoke the privileges or membership of such physician.
- (c) No hospital or employee of a hospital reporting to the Arkansas State Medical Board as provided by this section shall be liable in damages to any person for slander, libel, defamation of character, or otherwise because of the report.
- (d) Any reports, information, or records received and maintained by the board pursuant to this section, including any such material received or developed by the board during an investigation or hearing, shall be strictly confidential. The board may only disclose any such confidential information:
 - (1) In a disciplinary hearing before the board or in any subsequent trial or appeal of a board action or order;

- (2) To physician licensing or disciplinary authorities of other jurisdictions or to hospital committees located within or outside this state which are concerned with granting, limiting, or denying a physician's hospital privileges. The board shall include along with any such disclosure an indication as to whether or not the information has been substantiated; or
- (3) Pursuant to an order of a court of competent jurisdiction.

17-95-105. [Repealed]

Codes were renumbered according to Volume 17B 1999 Supplemental issue.

17-95-106. Volunteer services by retired physicians and surgeons - Immunity from liability.

- (a) Retired physicians and surgeons who are still licensed to practice medicine by the Arkansas State Medical Board under the laws of the State of Arkansas, and who render medical services voluntarily and without compensation to any person at any free or low-cost medical clinic located in the State of Arkansas and registered by the State Board of Health, which accepts no insurance payments and provides medical services free of charge to persons unable to pay or provides medical services for a nominal fee, shall not be liable for any civil damages for any act or omission resulting from the rendering of such medical services, unless such act or omission was the result of such licensee's gross negligence or willful misconduct.
- (b) The State Board of Health is empowered to adopt such rules and regulations as it may determine necessary to provide for the registration of free or low-cost medical clinics under this section; provided, such rules and regulations shall require that each person, patient, or client to whom medical services are provided has been fully informed before any treatment by the physician providing the services or by the staff of the medical clinic of the immunity from civil suit provisions of this section, and has acknowledged that fact in writing on a form approved or designated by the Department of Health.
- (c) The State Board of Health and its members, and the Department of Health and its agents and employees, are exempt and immune from liability for any claims or damages when performing their duties pursuant to this section.
- (d) The provisions of this section shall not affect the Arkansas Volunteer Immunity Act, Sec. 16-6-101 et seq.

17-95-107. Credentialing organization.

- (a) The purpose of this section is to allow the Arkansas State Medical Board to provide information to credentialing organizations.
- (b) For purposes of this section:
 - (1) "Accrediting organization" means an organization which awards accreditation or certification to hospitals, managed care organizations, or other health care organizations, including, but not limited to, the Joint Commission on the Accreditation of Health Care Organizations and the National Committee on Quality Assurance;
 - (2) "Board" means the Arkansas State Medical Board;
 - (3) "Credentialing information" means information regarding a physician's professional training,

- qualifications, background, practice history, and experience, e.g., status of medical license; clinical hospital privileges; status of Drug Enforcement Administration certificate; education, training, and board certification; work history; current malpractice coverage; history of professional liability or malpractice claims; drug or alcohol abuse to the extent permitted by law; history of board appearances; loss, surrender, restriction, or suspension of license; felony convictions; history of loss or limitation of privileges or disciplinary activity; attestation of the correctness and completeness of the application; history of Medicare or Medicaid or other sanctions; and other objective information typically required by accrediting organizations for the purpose of credentialing physicians;
- (4) "Credentialing organization" means a hospital, clinic, or other health care organization, managed care organization, insurer, or health maintenance organization; and
- (5) "Primary source verification procedure" means the procedure used by a credentialing organization to test the accuracy of documents and credentialing information submitted to it by or about a physician who is applying for affiliation or participation with the credentialing organization. This procedure involves the verification of credentials with the originating source of the credentials.
- (c) (1) All physicians licensed by the board shall submit such credentialing information as the board may request so that the board may verify the information by the primary source verification procedure in order to make such information available to credentialing organizations. If the physician should fail to submit such information as the board requests within a period of thirty (30) days, the failure can result in the suspension of the physician's license to practice medicine in the State of Arkansas after the matter is presented to the full board for a hearing pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
- (2) Any credentialing organization shall submit such credentialing information as it has in its possession to the board in order to complete the primary source verification procedure, upon the board's request and upon the board's providing proof that the physician has authorized the release of the information. The failure of the organization to release the information to the board shall be grounds to have the license to do business in the State of Arkansas suspended upon the board's presenting the proof to the licensing agency of that organization.
- (3) Credentialing organizations may utilize credentialing information provided by the board and verified by the primary source verification procedure of the board to evaluate the following:
- (A) Granting or denying the application of a physician for affiliation or participation within the organization or its networks;
- (B) The quality of services provided by a physician or the physician's competency or qualifications;
- (C) Renewal of the affiliation or participation of the physician; and
- (D) The type, extent, or conditions of the physician's privileges or participation in the network.
- (d)(1) The board shall provide to any credentialing organization any credentialing information the board collects concerning any person licensed by the board, if the person authorizes release of the information. If any person fails or refuses for any reason to authorize release of credentialing information, the requesting credentialing organization shall be entitled, on grounds of such refusal, to exclude such person from any privileges, contract, or network of the credentialing organization.
- (2) The board shall promulgate regulations establishing a credentialing information system, and such regulations shall indicate the procedures for collection and release of credentialing information under this section.
- (3) The board shall appoint a ten-member advisory committee to assist with the adoption of policies and regulations concerning the credentialing information system. At least six (6) of the ten (10) members of the advisory committee shall be representative of credentialing organizations subject to this section, including not less than two (2) hospital representatives and not less than two (2) insurer or health maintenance organization representatives.
- (4) Credentialing information shall not be disclosed to any parties other than the applicable health care provider and the credentialing organization and its designated credentialing and appeals, peer review, and quality improvement committees or bodies. Except as permitted in this section, credentialing information shall not be used for any purpose other than review by the board and credentialing organizations of the professional background, competency, qualifications, and credentials or renewal of credentials of a health care provider or appeals therefrom, and all such credentialing information shall be exempt from disclosure under the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq. Credentialing information may be disclosed in the following circumstances:
- (A) By the board in disciplinary hearings before the board or in any trial or appeal of the board action or order;
- (B) By the board or credentialing organization to any licensing, regulatory, or disciplinary authorities or agencies of the United States or of other states or jurisdictions; and
- (C) In any legal or regulatory proceeding which:
- (i) Is brought by a health care provider; a representative of the health care provider or a class thereof; and local, state, or federal agency or authority; or a patient or group or class of patients or their authorized representatives or agents; and
- (ii) Challenges the actions, omissions, or conduct of the credentialing organization with respect to credentialing of any health care provider or the grant or denial of any affiliation or participation of such health care provider with or in the credentialing organization or any network thereof; or

- (D) By any party when authorized to do so by the health care provider to whom the credentialing information relates.
- (5) The evaluation and discussion of credentialing information by a credentialing organization shall not be subject to discovery or admissible pursuant to the Arkansas Rules of Civil Procedure or the Freedom of Information Act of 1967, § 25-19-101 et seq.
- (6) The board may enter into contractual agreements with users of the credentialing information system to define the type and form of information to be provided and to give users assurances of the integrity of the information collected.
- (7) The board may charge credentialing organizations a reasonable fee for the use of the credentialing service as established by rule and regulation. The fee shall be set in consultation with the advisory committee and shall be set at such a rate as will reimburse the board, when added to the credentialing assessments collected from physicians, for the cost of maintaining the credentialing information system. The board's costs may not exceed the fees charged by private vendors with a comparable statewide credentialing service. Each physician licensee of the board will pay a credentialing fee of one hundred dollars (\$100) per year at the time of the renewal of the license for the years 2000 and 2001. For the year 2002 and each year thereafter, the board may assess each physician licensee an amount not to exceed twenty-five dollars (\$25.00) per year to offset the cost for providing the credentialing service. Physicians shall not be charged a credentialing fee by a credentialing organization.
- (e) (1) In lieu of testing credentialing information by its own primary source verification procedure, a credentialing organization may rely upon credentialing information from the board, if the board certifies that the information provided by the board has been tested by the board's primary source verification procedure. The credentialing organization shall be immune from civil suit based on any allegation of wrongdoing or negligence involved in the collection and verification of or reliance upon credentialing information on a health care provider if the credentialing organization has utilized the information provided by the board in credentialing a health care provider for affiliation or participation with the credentialing organization. This does not convey immunity from civil suit to a credentialing organization for any credentialing decision it makes.
- (2) Subject only to the exceptions recognized in subdivisions (f)(1) and (f)(2) of this section, a credentialing organization shall be precluded hereby from seeking credentialing information from the physician or from sources other than the board if:
 - (A) The same credentialing information is available from the board; and
 - (B) At the time such credentialing information is requested, the board:
 - (i) Holds certification by the National Committee for Quality Assurance as a certified credentials verification organization;
 - (ii) Demonstrates compliance with the principles for credentials verification organizations set forth by the Joint Commission on the Accreditation of Healthcare Organizations;
 - (iii) Documents compliance with Department of Health rules and regulations applicable to credentialing; and
 - (iv) Maintains evidence of compliance with the standards referenced in subdivisions (e)(2)(B)(i), (ii), and (iii) of this section; and
- (C) The board charges fees which comply with subdivision (d)(7) of this section. Until such time as the board satisfies each of the foregoing prerequisites, credentialing organizations, in their discretion, may utilize credentialing information obtained from the board, or they may seek other sources for the same credentialing information. If at any time the board fails to satisfy any of the certification or compliance standards referenced in this subsection (e), no credentialing organization shall be required to utilize the board to obtain credentialing information during any period in which the board lacks such accreditation or compliance.
- (f)(1) Credentialing organizations which utilize the credentialing information system offered by the board shall not attempt to collect duplicate information from individual physicians or originating sources, but nothing in this section shall prevent any credentialing organization from collecting or inquiring about any data not available from or through the board, nor from reporting to or inquiring of the National Practitioner Data Bank.
- (2) The board may seek an injunction against any credentialing organization violating or attempting to violate this section and, upon prevailing, shall be entitled to recover attorney's fees and court costs involved in obtaining the injunction.
- (g) The board will have the authority to hire such employees, enter into contracts with attorneys, individuals, or corporations for services, as may be necessary to bring about the purpose of this section.

History. Acts 1999, No. 1410, § 2.

ARKANSAS MEDICAL PRACTICES ACT

SUB-CHAPTER 2 - GENERAL PROVISIONS

17-95-201. Short title.

Sub-chapters 2-4 of this chapter shall be known as the "Arkansas Medical Practices Act."

17-95-202. Definitions.

As used in Sub-chapters 2-4 of this chapter, unless the context otherwise requires:

- (1) "Board" means the Arkansas State Medical Board;

- (2) "Practice of medicine" means:
- (A) Holding out one's self to the public within this state as being able to diagnose, treat, prescribe for, palliate, or prevent any human disease, ailment, injury, deformity, or physical or mental condition, whether by the use of drugs, surgery, manipulation, electricity, or any physical, mechanical, or other means whatsoever;
 - (B) Suggesting, recommending, prescribing, or administering any form of treatment, operation, or healing for the intended palliation, relief, or cure of any physical or mental disease, ailment, injury, condition, or defect of any person with the intention of receiving, either directly or indirectly, any fee, gift, or compensation whatsoever;
 - (C) The maintenance of an office or other place to meet persons for the purpose of examining or treating persons afflicted with disease, injury, or defect of body or mind;
 - (D) Using the title "M.D.," "M.B.," "D.O.," "Physician," "Surgeon," or any word or abbreviation to indicate or induce others to believe that one is engaged in the diagnosis or treatment of persons afflicted with disease, injury, or defect of body or mind, except as otherwise expressly permitted by the laws of this state relating to the practice of any limited field of the healing arts; or
 - (E) Performing any kind of surgical operation upon a human being.

History. Acts 2001, No. 464, § 1

17-95-203. Exemptions.

Nothing herein shall be construed to prohibit or to require a license with respect to any of the following acts:

- (1) The gratuitous rendering of services in case of emergency;
- (2) The rendering of services in this state by a physician lawfully practicing medicine in another state or territory, provided that if any such physician does not limit such services to an occasional case or if he has any established or regularly used hospital connections in this state or if he maintains or is provided with for his regular use any office or other place for the rendering of those services, then he must possess a license to practice medicine in this state;
- (3) The practice of the following professions as defined by the laws of this state, which Sub-chapters 2-4 of this chapter are not intended to limit, restrict, enlarge, or alter the privileges and practice of, as provided by the laws of this state:
 - (A) Dentistry;
 - (B) Podiatry;
 - (C) Optometry;
 - (D) Chiropractic;
 - (E) Cosmetology.
- (4) The practice of Christian Science, with or without compensation;
- (5) The performance by commissioned medical officers of the armed forces of the United States of America or of the United States Public Health Service or of the United States Veterans' Administration of their lawful duties in this state as officers;

- (6) The rendering of nursing services by registered or other nurses in the lawful discharge of their duties as such;
- (7) The rendering of services by students, interns, or residents in a licensed and approved hospital having an internship or residency training program approved by the American Medical Association or the State Board of Health or the United States Government;
- (8) As defined and limited by the laws of this state, the performance of the duties of a:
 - (A) Physical therapist; or
 - (B) Massage Therapist.
- (9) The domestic administration of family remedies;
- (10) The practice of lay midwifery as defined in chapter 85 of this title;
- (11) (A) The practice of medicine within the scope of a physician's duties as an employee of the Federal Bureau of Prisons, if the physician has obtained a license to practice from Arkansas or any other state, territory, the District of Columbia, or Canada.
 - (B) A physician authorized to practice under subdivision (11) (A) of this section may provide medical treatment or services only to inmates and shall not provide medical treatment or services to other employees of the Federal Bureau of Prisons or any other person.

History. Acts 2001, No. 929, § 5; Acts 2001, No. 579, § 1

17-95-204. Perjury.

Any person who shall willfully and knowingly make any false statement to the board concerning his qualifications or authority to practice medicine shall be deemed guilty of perjury and punished as provided by law for those guilty of perjury. Such person may be indicted and tried for such offense, either in the county where the affidavit to the statement was made or where the person resides.

17-95-205. Itinerant vendors.

Any itinerant vendor of any drug, nostrum, ointment, or application of any kind intended for the treatment of disease or injury, who, by writing, print, or other methods, may profess to cure or treat diseases or deformity by any drug, nostrum, manipulation, or other expedient, in this state, shall be deemed to be in violation of this law and punished as provided.

17-95-206. Practice of medicine by physicians located outside the state.

A physician who is physically located outside this state but who, through the use of any medium, including an electronic medium, performs an act that is part of a patient care service initiated in this state, including the performance or interpretation of an X-ray examination or the preparation or interpretation of pathological material that would affect the diagnosis or treatment of the patient, is engaged in the practice of medicine in this state for the purposes of this chapter and is subject to this chapter and to appropriate regulation by the board. This section does not apply to:

- (1) The acts of a medical specialist located in another jurisdiction who provides only episodic consultation services;
- (2) The acts of a physician located in another jurisdiction who is providing consultation services to a medical school;
- (3) Decisions regarding the denial or approval of coverage under any insurance or health maintenance organization plan;
- (4) The service to be performed is not available in the state;

- (5) A physician physically seeing a patient in person in another jurisdiction; or
- (6) Other acts exempted by the board by regulation.

**SUB-CHAPTER 3 -
ARKANSAS STATE MEDICAL BOARD**

17-95-301. Creation - Members.

- (a) There is created the Arkansas State Medical Board.
- (b) The board shall consist of thirteen (13) members appointed by the Governor for terms of eight (8) years.
 - (1) Nine (9) members shall be duly qualified, licensed, and active medical practitioners and appointed upon the advice and recommendation of the Arkansas Medical Society. One (1) member shall be appointed from each of the six (6) congressional districts established by Acts 1951, No. 297 [repealed]. The three (3) members shall be appointed at large.
 - (2) One (1) member shall be a licensed practicing physician in this state and shall be appointed upon the advice and recommendation of the Physicians' Section of the Arkansas Medical, Dental, and Pharmaceutical Association.
 - (3) Two (2) members of the board shall not be actively engaged in or retired from the practice of medicine. One (1) member shall represent consumers, and one (1) member shall be sixty (60) years of age or older and shall represent the elderly. Both shall be appointed from the state at large subject to confirmation by the Senate. The two (2) positions may not be held by the same person. Both shall be full voting members but shall not participate in the grading of examinations.
 - (4) One (1) member shall be a duly qualified, licensed, and practicing osteopathic physician and appointed upon the recommendation of the Arkansas Osteopathic Medical Association.
- (c) The term of each member shall expire on December 31 of the year designated, and a successor appointee shall be named by the Governor on or before the expiration date of the term so expiring.
- (d)
 - (1) Vacancies on the board occurring otherwise than as provided in this section shall be filled by appointment by the Governor within thirty (30) days thereafter.
 - (2) In the event a vacancy exists in the member position of licensed practicing physician appointed upon the advice and recommendation of the Arkansas Medical Society due to death, resignation, or other cause, a successor member to the position shall be appointed by the Governor for the remainder of the unexpired portion of the term thereof in the same manner as provided in this section for the initial appointment.
 - (3) In the event a vacancy exists in the member position of licensed practicing physician appointed upon the advice and recommendation of the Physicians' Section of the Arkansas Medical, Dental, and Pharmaceutical Association due to death, resignation, or other cause, a successor member to the position shall be appointed by the Governor for the remainder of the unexpired

portion of the term thereof in the same manner as provided in this section for the initial appointment.

- (4) In the event a vacancy exists in the member positions of the licensed osteopathic physician appointed upon the advice and recommendation of the Arkansas Osteopathic Medical Association due to death, resignation, or other cause, a successor member to the position shall be appointed by the Governor for the remainder of the unexpired portion of the term thereof in the same manner as provided in this sub-chapter for the initial appointment.
- (e) The members of the board shall take the oath prescribed by the Constitution for state officers before entering upon the discharge of their duties.
- (f)
 - (1) The members of the board shall receive as compensation for their services the sum of one hundred dollars (\$100) per day and expenses for regular board meetings and one hundred dollars (\$100) per day and expenses for called meetings.
 - (2) The secretary for the board shall receive such additional salary as may be fixed by the board.

History. Acts 2001, No. 464, § 2, 3

17-95-302. Organization and proceedings.

- (a) Within thirty (30) days after their appointment, the board shall meet and organize by electing a chairman, vice-chairman, and treasurer. The treasurer shall give bond in such amount as may be designated by the board, which may be increased or decreased from time to time, conditioned for the faithful disbursement and accounting of all moneys coming into his hands as the treasurer.
- (b) The board shall hold its regular meetings at such time as the board shall establish by regulation and shall have the power to call and hold special meetings at such times and places as it deems necessary.
- (c) The chairman and vice-chairman and secretary shall have power to administer oaths for the purpose of performing their powers and duties.
- (d) The board shall have a seal bearing the name "Arkansas State Medical Board."

17-95-303. Powers and duties.

The board shall:

- (1) Make and adopt all necessary rules, regulations, and bylaws not inconsistent with the laws of this state or of the United States, necessary or convenient to perform the duties and to transact the business required by law;
- (2) Have authority to promulgate and put into effect such rules and regulations as are necessary to carry out the purposes of Sub-chapters 2-4 of this chapter and the intentions expressed therein;
- (3) Have authority to employ attorneys to represent the board in all legal matters at a compensation approved by the board. Contracts for employment of attorneys shall be filed by the secretary of the board with the Legislative Council. The board shall further have authority to request the assistance of the Attorney General and the prosecuting attorneys of Arkansas in such manner as it deems necessary and proper;
- (4) Have the authority to employ an executive secretary to carry out the purposes and the mandates of the Arkansas State Medical Board and to supervise the other employees of the board;

- (5) Have the authority to employ a medical director, who shall hold a valid license to practice medicine in this state to evaluate medical issues and assist in the investigations pending before the board;
- (6) Have the power and authority to employ such secretarial and administrative assistance as may be necessary to carry out the provisions of Sub-chapters 2-4 of this chapter and the duties of the board to protect the people of the State of Arkansas;
- (7) Have the power and authority to employ one (1) or more inspectors as may be necessary to carry out the provisions of Sub-chapters 2-4 of this chapter and the duties of the board to protect the people of the State of Arkansas;
- (8) Examine, as is provided for by law, all applicants for a license to practice medicine in this state.

History. Acts 2001, No. 464, § 4

17-95-304. Inspectors - Use of prescriptions, orders, or records.

- (a) The board shall utilize as its employees the investigators and inspectors of the Division of Pharmacy Services, Bureau of Health Resources, Arkansas Department of Health.
- (b) (1) The Department of Health is directed to make investigators and inspectors available for such purposes and for as long as they may conduct investigations and inspections of prescriptions and obtain prescriptions as admissible evidence without the necessity of the issuance of an administrative inspection warrant or search warrant.
- (2) The inspectors shall have the duty and authority upon written direction by the secretary of the board to investigate, inspect, and make copies of the records, orders, and prescriptions, wherever located, of all persons licensed by the board in order to determine whether or not the persons have violated the laws of the State of Arkansas or the United States respecting the prescribing and use of narcotics and potentially dangerous drugs and whether or not the persons have violated the provisions of Sub-chapters 2-4 of this chapter.
- (c) (1) The copies of prescriptions, orders, or records shall not become public records by reason of their use in disciplinary proceedings held by the board, nor shall the patient's or physician's property right to the prescriptions be extinguished by such use.
- (2) If the prescriptions, orders, or records are to be used in criminal proceedings, they shall be obtained by the inspectors only on an administrative inspection warrant as authorized by Sec. 5-64-502, as amended. However, no administrative inspection warrant is necessary where the prescriptions, orders, or records are to be used solely for board disciplinary purposes.

17-95-305. Disposition of funds.

- (a) All funds received by the Arkansas State Medical Board shall be expended in furtherance of the purposes of Sub-chapters 2-4 of this chapter. This includes, but is not specifically limited to the publication of the Medical Practices Act, Sec. 17-95-201 et seq., preparing and publishing a compilation of physicians, investigating

violations of the Medical Practices Act, instituting actions to compel compliance with the provisions of the Medical Practices Act, defending actions brought against it as a result of its actions under the provisions of Sub-chapters 2-4 of this chapter and for such other purposes not inconsistent with the general purposes of the creation of the board as may be directed by the board.

- (b) All moneys received by the board shall be disbursed by the president and/or executive secretary of the board. The president and/or executive secretary shall furnish a surety bond and should keep a true and faithful account of all moneys received and all moneys expended. The executive secretary shall file, annually with the Governor, a report of all financial transactions duly audited by an independent accountant.
- (c) Any surplus in the treasury of the board at the end of the year shall remain in the treasury and may be expended in succeeding years for the purposes set out in this section.
- (d) It shall not be lawful for the board, or for any member thereof, in any manner whatsoever or for any purpose, to charge or obligate the State of Arkansas for payment of any money whatsoever.

SUB-CHAPTER 4 - LICENSING

17-95-401. License required.

If any person who does not possess a valid license to practice medicine within this state and who is not exempted from the licensing requirements does any of the acts constituting the practice of medicine, he or she shall be deemed to be practicing medicine without complying with the provisions of Sub-chapters 2-4 of this chapter.

17-95-402. Penalties - Injunction.

- (a) (1) Every person who practices, or attempts to practice medicine in any of its branches or who performs or attempts to perform any surgical operation for any person or upon any person within this state without first having complied with the provisions of Sub-chapters 2-4 of this chapter shall be deemed guilty of a misdemeanor.
- (2) Upon conviction he or she shall be punished by a fine or not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for a period of not less than one (1) month nor more than eleven (11) months, or by both fine and imprisonment. Each day of such practice shall constitute a separate offense.
- (b) The courts of record of this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of medicine in a proceeding by the board or any member thereof, or by any citizen of this state, in the county in which the alleged unlawful practice occurred or in which the defendant resides. The issuance of an injunction shall not relieve a person from criminal prosecution for violation of the provisions of Sub-chapters 2-4 of this chapter, but such remedy of injunction shall be in addition to liability to criminal prosecution.
- (c) It is declared that any person who practices or attempts to practice medicine in the State of Arkansas without first obtaining a license authorizing him to so practice medicine is a public nuisance, and it is declared that the illegal

practice of medicine in violation of the laws of the State of Arkansas is a public nuisance and is detrimental to the health, safety, security, and welfare of the people of the State of Arkansas.

17-95-403. Application - Qualifications.

- (a) (1) Every person desiring a license to practice medicine shall make application to the board. The application shall be verified by oath and shall be in such form as shall be prescribed by the board.
- (2) The application shall be accompanied by the license fee and such documents, affidavits, and certificates as are necessary to establish that the applicant possesses the qualifications prescribed by this section apart from any required examination by the board.
- (3) The burden of proof shall be upon the applicant, but the board may make such independent investigation as it may deem advisable to determine whether the applicant possesses the qualifications and whether the applicant has at any time committed any of the acts or offenses herein defined as unprofessional conduct.
- (b) No person shall be granted a license to practice medicine in the State of Arkansas unless he or she:
 - (1) Is at least twenty-one (21) years of age;
 - (2) Is of good moral character and has not been guilty of acts constituting unprofessional conduct as defined in Sec. 17-95-409;
 - (3) (A) Is a graduate of:
 - (i) A recognized United States or Canadian medical school whose entrance requirements and course of instruction have been approved by the Council on Medical Education of the American Medical Association; or
 - (ii) A Canadian eclectic medical school which has been approved by the Council on Medical Education of the National Eclectic Medical Association; or
 - (iii) A foreign medical school whose entrance requirements and course of instruction have been approved by the Arkansas State Medical Board. He or she must also have served one (1) year as an intern or resident in an accredited medical school-affiliated hospital in the United States.
 - (B) However, the Arkansas State Medical Board, at such time as it deems expedient, may require of all applicants for licensure a properly verified certificate that they have served one (1) year of internship in a general accredited hospital.
- (4) Has successfully passed an examination approved by the Arkansas State Medical Board as set forth in their Rules and Regulations.

17-95-404. Examinations.

- 1. (a) The Arkansas State Medical Board by and through its Rules and Regulations will approve and designate the examinations to be given to those individuals who desire a license to practice medicine in the State of Arkansas. The Arkansas State Medical Board will further set forth

the standards by rule and regulation for successful completion of the examination for licensure.

- (b) Examinations for a license to practice medicine shall be held not less than once in each year at such times and places as may be specified by the board.
 - (c) Examination materials may be obtained through the executive secretary of the board for a period of one (1) year after the date of the examination.
 - (d) If, in the opinion of the board, the applicant possesses the necessary qualifications, the board shall issue to him or her a certificate.
 - (e) If an applicant fails to meet the minimum grade requirements in his examination, he may be re-examined upon a filing of a new application and the payment of a required fee.
- 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.
 - 3. In any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.
 - 4. All laws and parts of laws in conflict with this act are hereby repealed.

History. Acts 1957, No. 198, § 8; A.S.A. 1947, § 72-608; Acts 1992 (1st Ex. Sess.), No. 45, § 2; 1999, No. 490, § 1; Acts 1999

17-95-405. Credentials.

- (a) A legally licensed physician and surgeon who has been issued a license to practice medicine in another state where the requirements for licensure are equal to those established by the State of Arkansas may be permitted by the board to practice his or her profession in this state without taking an examination upon payment of a fee as provided in Sec. 17-95-411.
- (b) The issuance of a license by credentials by the board shall be at the sole discretion of the board, and the board may provide such rules or regulations governing such admission as may be deemed necessary by or desirable to the board.

17-95-406. Temporary permits.

- (a) In cases of emergency and to prevent hardship, the secretary of the board may issue a temporary permit to practice medicine upon payment of the fee required for applicants after satisfying himself that the applicant has all the qualifications and meets all the requirements of Sub-chapters 2-4 of this chapter. A temporary permit shall be valid only until the next meeting of the Arkansas State Medical Board and shall expire at that time.
- (b) (1) The Arkansas State Medical Board shall issue a temporary permit to practice medicine to any medical doctor licensed and qualified to practice medicine in the Philippines, a former possession of the United States, provided that the temporary permit issued shall authorize the person to practice medicine in this state only under the supervision of a duly licensed and qualified physician in this state.
- (2) The temporary permit shall be for a period of not more than two (2) years. If, at the end of the two (2) years, the person to whom a temporary permit has been issued has not met the qualifications and has not

passed the prescribed examinations for licenser to practice medicine in this state as provided in Sub-chapters 2-4 of this chapter, it shall be unlawful for the board to grant an extension of or to issue a new temporary permit to that person.

- (3) Nothing in this subsection shall prohibit the board from suspending or revoking the temporary permit of any person to whom a temporary permit is issued under the provisions of this subsection on any grounds which by law and regulation would be grounds to revoke or suspend the license of a person licensed to practice medicine in this state, or for such periods of time as the person to whom the temporary permit is issued is not under the supervision of a licensed and qualified physician in this state.
- (4) As used in this subsection, a person shall be deemed to be under the supervision of a licensed and qualified physician of this state when the physician shall notify the board in writing of his supervision of the medical practice of the person to whom the temporary permit is issued. It shall not be necessary that the person practice medicine out of the same office or in the same city or town in which the supervisory physician practices or resides.

17-95-407. Recording of certificate.

Prior to practicing medicine, every person receiving a certificate from the board shall have the certificate recorded in the office of the county clerk where he proposes to practice. When the person moves to another county for the purpose of continuing the practice of medicine, he shall file for record with the county clerk of the county to which he moves a certified copy of his certificate.

17-95-408. Annual registration.

- (a) The annual license or re-registration fee of a physician licensed by the Arkansas State Medical Board to practice medicine in the State of Arkansas shall be paid before or during the birth month of the license holder beginning in 1998, and each year thereafter. During the implementation year of 1998, fees shall be prorated.
- (b) Failure to pay the annual re-registration fee as herein provided by the last day of the birth month of the license holder shall cause the license to practice medicine in the State of Arkansas of any person so failing to pay the re-registration fee to expire automatically.
- (c) Any delinquent licentiate may be reinstated by paying all delinquent fees and a penalty of fifteen dollars (\$15.00) for each year or part thereof that he has been delinquent.
- (d)
 - (1) If any licentiate fails for three (3) consecutive years to pay the re-registration fee, it shall be the duty of the Arkansas State Medical Board, without hearing or notice, to cancel and revoke his or her license, subject to reinstatement.
 - (2) If application for reinstatement is made, the board shall consider the moral character and professional qualifications of the applicant upon notice and hearing before ordering reinstatement. Unless such showing shall thereupon be made to the board as would entitle the applicant to the issuance of an original license, reinstatement shall be denied.

- (3) The applicant for reinstatement shall file a written application and pay the same fee required for the issuance of an original license.
- (e) Any person practicing his or her profession while his or her license is suspended, or after it has been canceled pursuant to this section, shall be subject to the penalties prescribed by law.

17-95-409. Denial, suspension, or revocation - Grounds.

- (a)
 - (1) The board may revoke an existing license, impose penalties as listed in § 17-95-410, or refuse to issue a license in the event the holder or applicant, as the case may be, has committed any of the acts or offenses defined in this section to be unprofessional conduct.
 - (2) The words "unprofessional conduct", as used in Sub-chapters 2-4 of this chapter, are declared to mean:
 - (A)
 - (i) Conviction of any crime involving moral turpitude or conviction of a felony.
 - (ii) The judgment of any such conviction, unless pending upon appeal, shall be conclusive evidence of unprofessional conduct;
 - (B) Resorting to fraud, misrepresentation, or deception in applying for or securing a license to practice medicine or in taking the examination for the license, or in seeking a renewal of a license;
 - (C) Aiding or abetting an unlicensed person to practice medicine;
 - (D) Procuring or aiding or abetting in procuring a wrongful and criminal abortion;
 - (E) Violation of the laws of the United States or the State of Arkansas regulating the possession, distribution, or use of narcotic or controlled drugs classed in schedules 1-5 of the Controlled Substances Act of 1970 or the Uniform Controlled Substances Act, Sec. 5-64-101 et seq., including any amendments thereto;
 - (F) Habitual indulgence in the use of alcohol to such an extent as to render himself incapable of exercising that degree of skill and judgment in the treatment of his patients which the moral trust and confidence in him demands;
 - (G) Grossly negligent or ignorant malpractice;
 - (H) Habitual, intemperate, or excessive use of narcotics or of any other habit-forming drugs;
 - (I) Representing to a patient that a manifestly incurable condition of sickness, disease, or injury can be permanently cured;
 - (J) Becoming physically or mentally incompetent to practice medicine to such an extent as to endanger the public;
 - (K) Insanity or mental disease, if evidenced by an adjudication or by voluntary commitment to an institution for treatment of a mental disease or as determined by an examination conducted by three (3) impartial psychiatrists retained by the board;
 - (L)
 - (i) Soliciting for patronage;
 - (ii) Advertising for patronage in a false, fraudulent, deceptive, or misleading manner;
 - (iii) Advertising the quality of medical services; or
 - (iv) Advertising illegal procedures and practices;
 - (M) Offering, undertaking, attempting, or agreeing to cure or treat disease by a secret method,

procedure, treatment, or medicine or representing, directly or indirectly, that he can treat, operate on, or prescribe for any human condition by a method, means, or procedure which he refuses to divulge upon demand to the Arkansas State Medical Board;

- (N) The willful betraying of a professional secret; and
 - (O) Persistent, flagrant over-charging or over-treating of patients;
 - (P) Violating a regulation of the board; and
 - (Q) Violating a term of probation or an order previously imposed by the board.
- (b) (1) (A) The board shall suspend an existing license in the event the holder breached a contract to practice medicine in a rural community that was entered into under the provisions of Sec. 6-81-701 et seq.
- (B) The suspension shall be for a period of years equivalent to the number of years that the recipient is obligated to practice medicine in a rural area, and the suspension shall continue until the loan, with interest thereon, is paid in full.
- (2) Upon notification from the Dean of the College of Medicine of the University of Arkansas for Medical Sciences and the Director of the Health Department that exigent circumstances warrant a waiver of the suspension, the board shall reinstate the holder's license.

History. Acts 2001, No. 464, § 5

17-95-410. Denial, suspension, or revocation - Proceedings.

- (a) Any person may file a complaint with the board against any person having a license to practice medicine in this state charging him with:
- (1) Failure to have the necessary qualifications as set out in Sec. 17-95-403; and
 - (2) The commission of any of the offenses enumerated and described as unprofessional conduct in § 17-95-410.
- (b) If the board finds a probable violation of the Medical Practices Act or the regulations of the board, the board shall review the complaint and issue an order and notice of hearing to the licensee.
- (c) (1) The order and notice of hearing shall set forth a specification of charges in sufficient detail that the accused shall have full and complete disclosure of any alleged acts of misconduct, impropriety, or lack of qualification.
- (2) When an order and notice of hearing is issued, the board or its agent shall send by registered mail to the person's last address of record a copy of the order and notice of hearing along with a written notice of the time and place of the hearing and a statement advising the person that he or she may be present in person or by counsel to offer evidence and be heard in his or her defense.
- (3) The time fixed for the hearing shall not be less than thirty (30) days from the date of the mailing of the notice.
- (d) At the time and place fixed for a hearing before the board, the board shall receive evidence upon the subject

under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his defense. The board shall not be bound by strict or technical rules of evidence, but shall consider all evidence fully and fairly. However, all oral testimony considered by the board must be under oath.

- (e) (1) At the conclusion of the hearing, the board shall first decide whether the accused is guilty of the charges against him, and then decide on appropriate disciplinary action.
- (2) If the accused is found not guilty, the board shall dismiss the charges.
- (3) If the accused is found guilty, the board may do one or more of the following:
- (A) Revoke his license;
 - (B) Suspend his license for a period not to exceed one (1) year;
 - (C) Issue a reprimand; or
 - (D) Impose a probation allowing the licensee to continue practicing under terms and conditions found to be in the best interest of the accused and the general public.
 - (E) Levy a fine of up to one thousand dollars (\$1,000) per violation of the Arkansas Medical Practices Act, Sec. 17-95-201, et seq., and collect out-of-pocket costs of investigation incurred by the board to conduct the disciplinary hearing.
- (4) If the board suspends the license, it may issue a temporary license for whatever duration it decides and renew this temporary license at its discretion.
- (f) Appeals may be had by either of the parties from the decision of the board in the manner now provided by law. All evidence considered by the board shall be reduced to writing and available for the purpose of appeal or certiorari to any of the parties of the hearing.
- (g) Nothing in this section shall be construed so as to deprive any person of his rights without full, fair, and impartial hearing.

History. Acts 2001, No. 464, § 6

17-95-411. Fees.

The board shall charge the following fees:

- (1) (A) For application for license by examination or by credentials, four hundred (\$400.00).
- (B) In the event it is determined by the board that the credentials of the applicant are insufficient or the applicant withdraws his application before taking the examination, the board may return such portion of the fee as allowed by the regulations of the board;
- (2) For temporary license or permit, fifty dollars (\$50.00) for each six-month period;
- (3) For certification of licentiate to another state, fifteen dollars (\$15.00); and
- (4) (A) For annual license or re-registration fee, seventy dollars (\$70.00). This fee is to be imposed upon each physician who holds a license to practice medicine in the State of Arkansas.
- (B) The annual license or re-registration fee may be changed by the board, provided the amount shall be fixed by the board not less than sixty (60) days in advance of January 1 of each year.

SUB-CHAPTER 5 CRITICAL MEDICAL SHORTAGE AREAS

17-95-501. Legislative intent.

- (a) The General Assembly finds and declares that this sub-chapter is necessary to assist those areas of critical medical shortage in the State of Arkansas in recruiting and retaining physicians to meet the primary medical care needs of the citizens residing in these areas.
- (b)
 - (1) It is the intent of the General Assembly to grant authority to the State Medical Board to issue temporary licenses to practice medicine in defined areas of critical medical shortage for a specified period of time and under required conditions to be defined in Sec. 17-95-503.
 - (2) It is the further intent of the General Assembly that the State Medical Board utilize every means at its disposal under the laws of this state, including the authority granted by this sub-chapter, to increase the number of practicing physicians in the areas of critical medical shortage as defined in Sec. 17-95-502.
 - (3) It is the further intent of this sub-chapter that neither the State Medical Board nor its secretary, when acting in behalf of the board and under authority granted to him or her by the board, shall be liable collectively or individually, for civil damages from claims pertaining to the administration of this sub-chapter.

17-95-502. Definitions.

As used in this sub-chapter, unless the context otherwise requires:

- (1) "Temporary license" is a license issued by the Arkansas State Medical Board to practice medicine for a period of twelve (12) months in an area of critical medical shortage as defined in subdivision (2) of this section. A temporary license may be renewable by the State Medical Board, under the conditions and requirements of this sub-chapter for additional periods of twelve (12) months not to exceed the limitations set forth in Sec. 17-95-504;
- (2) "Critical medical shortage area" is an area wherein there is a critical shortage of physicians for the area's population as defined by the Department of Health, Education, and Welfare in the Federal Register, Volume 41, No. 13, dated July 6, 1976, and as updated by the Department of Health and Human Services;
- (3) "E.C.F.M.G." is an examination for graduates of foreign medical schools prepared and administered semiannually by the Education Council for Foreign Medical Graduates;
- (4) "FLEX" is the Federal Licensing Examination prepared and issued semiannually by the Federation of State Medical Boards of the United States, Inc. The FLEX includes three (3) parts: The basic science, the clinical science, and the clinical competency average. Successful passage of the FLEX with an overall weighted average of seventy-five (75) is required for medical licensure by the State Medical Board.

17-95-503. Temporary license.

- (a) The Arkansas State Medical Board may issue a temporary license to any physician who meets the

qualifications and requirements for medical licensure as established by the State Medical Board except for successful passage of the examination as prescribed by the Rules and Regulations of the board. However, the physician must fulfill the following additional conditions and requirements to be eligible for temporary licensure:

- (1) The physician must practice medicine in an area of critical medical shortage in Arkansas; and
 - (2) The physician, if a graduate of a foreign medical school, must have satisfactorily passed the E.C.F.M.G. examination;
- (b) To be eligible for a renewal of a temporary license by the State Medical Board, the physician must fulfill the following requirements to be administered by the State Medical Board:
 - (1) The physician must submit a written request for the renewal to the State Medical Board;
 - (2) The physician must agree to repeat the examination for licensure during the twelve (12) month term of the renewed temporary license; and
 - (3) The physician must continue to fulfill the conditions and requirements of this sub-chapter for temporary licensure during the term of the renewed license.
 - (c) The State Medical Board shall review the physician's progress toward successfully passing the examination for licensure, as well as the physician's performance in the community where he or she is practicing medicine prior to renewing the physician's temporary license.

17-95-504. Remedial training.

- (a) A temporary license may be granted to an eligible physician for not more than three (3) twelve-month terms.
- (b)
 - (1) If, after that time, the physician has not satisfactorily passed the examination for licensure, the State Medical Board, in collaboration with the Dean of the College of Medicine of the University of Arkansas for Medical Sciences, shall review the physician's performance and areas of deficiency on the examination for licensure and shall prescribe a plan of remedial training for the physician.
 - (2) The physician must carry out the prescribed plan before being eligible for either a regular license based on successful passage of the examination for licensure or another period of temporary licensure under the same provisions and requirements as were originally applied for his or her temporary license under the provisions of this sub-chapter.

17-95-505. Nonliability of board.

In the application of the authorities and provisions of this sub-chapter, neither the State Medical Board, either individually or collectively, nor its secretary, when acting on behalf of the board, shall be held liable for civil damages from claims pertaining to the administration of the provisions of this sub-chapter.

OCCUPATIONAL THERAPISTS SUB-CHAPTER 1 - GENERAL PROVISIONS

17-88-101. Short title.

This chapter shall be known and may be cited as the "Arkansas Occupational Therapy Practice Act."

17-88-102. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Occupational therapy" means the evaluation and treatment of individuals whose ability to cope with the tasks of living is threatened or impaired by developmental deficits, the aging process, poverty or cultural differences, environmental or sensory deprivation, physical injury or illness, or psychological and social disability.
 - (A) The treatment utilizes task-oriented activities to prevent or correct physical or emotional deficits to minimize the disabling effect of these deficits in the life of the individual so that he might perform tasks normally performed at his stage of development.
 - (B) Specific occupational therapy techniques include, but are not limited to:
 - (i) Instruction in activities of daily living, design, fabrication, application, recommendation, and instruction in the use of selected orthotic or prosthetic devices and other adaptive equipment;
 - (ii) Perceptual-motor and sensory integrative activities;
 - (iii) The use of specifically designed crafts;
 - (iv) Exercises to enhance functional performance; and
 - (v) Prepositional evaluation and treatment.
 - (C) The techniques are applied in the treatment of individual patients or clients, in groups, or through social systems;
- (2) "Occupational therapist" means a person licensed to practice occupational therapy, whose license is in good standing;
- (3) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the frequent and regular supervision by or with consultation with an occupational therapist, whose license is in good standing. The definition of "frequent" and "regular" will be established by the Arkansas State Occupational Therapy Examining Committee;
- (4) "Occupational therapy aide" or "worker" means a person who aids a licensed occupational therapist in the practice of occupational therapy, whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy;
- (5) "Board" means the Arkansas State Medical Board;
- (6) "Committee" means the Arkansas State Occupational Therapy Examining Committee;
- (7) "Association" means the Arkansas Occupational Therapy Association;
- (8) "Person" means any individual, partnership, unincorporated organization, or corporate body, except that only an individual may be licensed under this chapter.

17-88-103. Exceptions.

Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of:

- (1) Any person licensed in this state by any other law from engaging in the profession or occupation for which he is

licensed;

- (2) Any person employed as an occupational therapist or occupational therapy assistant by the United States, if the person provides occupational therapy solely under the direction or control of the organization by which he is employed;
- (3) Any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if such activities and services constitute a part of a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee;
- (4) Any person fulfilling the supervised field work experience requirements of Sec. 17-88-302, if such activities and services constitute a part of the experiences necessary to meet the requirements of that section;
- (5) Any person employed by or working under the direct supervision of an occupational therapist as an occupational therapy aide; or
- (6) Any person licensed as an occupational therapist in another state, United States possession, or country or who has received at least a baccalaureate degree or its equivalent in occupational therapy and who is in this state for the purpose of:
 - (A) Consultation, provided the practice is limited to consultation; or
 - (B) Conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or postgraduate education in an approved school of occupational therapy or its affiliated clinical facilities or health care agencies or before a group of licensed occupational therapists.

17-88-104. False oath or affirmation - Penalty.

- (a) A person who makes a willfully false oath or affirmation in any case in which an oath or affirmation is required by this chapter or who obtains or attempts to obtain registration by any fraudulent representation shall be guilty of a misdemeanor.
- (b) Upon conviction, he shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned in the county jail for a period of not less than one (1) month nor more than six (6) months, or be both fined and imprisoned.

17-88-105. Disposition of funds.

All fees and penalties provided for in this chapter shall be received by the Arkansas State Medical Board, shall be deposited in the State Treasury, shall be credited to the State Medical Board - Occupational Therapy Fund, which is created, and shall be expended by the board in accordance with the appropriation by the General Assembly.

SUBCHAPTER 2 - REGULATORY AGENCIES

17-88-201. Arkansas State Medical Board.

- (a) The Arkansas State Medical Board shall administer the provisions of this chapter.
- (b) With the advice and assistance of the Arkansas State Occupational Therapy Examining Committee, the board shall pass upon the qualification of applicants for licensure, regulate and supervise all examinations, determine the

applicants who successfully pass the examination, and license the applicants who meet the qualifications provided in this chapter.

- (c) In addition to the other powers and duties set out elsewhere in this chapter, the board shall:
- (1) Adopt and put into effect reasonable rules and regulations to carry this chapter into effect;
 - (2) Investigate reported violations of this chapter and take such steps as may be necessary to enforce this chapter;
 - (3) Keep a record of its proceedings under this chapter and of all persons registered by it on a register which shall show the name of every registrant, his last known place of business, his last known place of residence, and the date and number of his license; and
 - (4) Compile a list of all occupational therapists who are licensed to practice occupational therapy in the State of Arkansas. The list shall be printed annually. It shall furnish a copy of the list to all persons requesting it upon the payment of a fee as may be fixed by the board to compensate for the cost of printing the list.

17-88-202. Arkansas State Occupational Therapy Examining Committee.

- (a) There is created an Arkansas State Occupational Therapy Examining Committee to assist the board in carrying out the provisions of this chapter.
- (b) The committee shall consist of six (6) members appointed by the Governor for terms of five (5) years, each of whom is a citizen of the United States and a resident of the State of Arkansas. One (1) member shall be a member of a minority race.
 - (1) Four (4) members shall be persons licensed under this chapter who have had at least three (3) years' experience in the practice of occupational therapy in this state and shall be appointed upon the advice and recommendation of the Arkansas Occupational Therapy Association.
 - (2) One (1) member shall be a resident of this state who is not engaged in or licensed to practice as an occupational therapist.
 - (3) One (1) member shall not be actively engaged in or retired from the profession of occupational therapy, shall be sixty (60) years of age or older, and shall represent the elderly. This member shall be appointed from the state at large, subject to the confirmation of the Senate. He or she will be a full voting member but shall not participate in the grading of examinations.
- (c) The consumer representative and the elderly representative position may not be filled by the same person.
- (d) Vacancies shall be filled in the same manner for the unexpired term.
- (e) The members of the committee shall receive thirty-five dollars (\$35.00) per day for each day of attendance at meetings of the committee. In addition, they shall be entitled to mileage for attending meetings of the committee at the rate prescribed by law or regulation for state employees.
 - (1) The committee shall meet with the board at its regular meetings, assist in regulating and

supervising all examinations, establish reasonable fees for examination and licensure, and call special meetings at such times as it deems necessary.

- (2) A majority of the committee shall have the power to call a special meeting.
- (f) The committee is directed by this chapter to define "regular" and "frequent" as they relate to the supervision of occupational therapy assistants and to write and publish a code of ethics for the practice of occupational therapy and rules defining unprofessional conduct and gross negligence.
- (g) In addition, the committee may be delegated by the board such powers and duties as it may deem proper.

SUBCHAPTER 3 - LICENSING

17-88-301. License required.

No person shall practice occupational therapy or hold himself out as an occupational therapist or occupational therapy assistant or as being able to practice occupational therapy or to render occupational therapy services in the state unless he is licensed in accordance with provisions in this chapter.

17-88-302. Qualifications of applicants.

Each applicant must meet the following conditions:

- (1) The applicant must be an individual at least eighteen (18) years old;
- (2) The applicant must be of good moral character;
- (3) The applicant must have successfully completed the academic requirements of an educational program in occupational therapy with concentration in biologic or physical science, psychology and sociology, and with education in selected manual skills.
 - (A) For an occupational therapist, the program shall be accredited by the American Medical Association in collaboration with the American Occupational Therapy Association and shall lead to the awarding of a bachelor's or master's level degree or advanced standing certificate in occupational therapy.
 - (B) For an occupational therapy assistant, the program shall be approved by the American Occupational Therapy Association and shall lead to the awarding of an associate level degree in occupational therapy;
- (4) The applicant must have successfully completed a period of supervised field work experience at a recognized educational institution where he or she met the following academic requirements:
 - (A) For an occupational therapist, a minimum of six (6) months supervised field work experience is required;
 - (B) For an occupational therapy assistant, a minimum of two (2) months of supervised field work experience at an approved facility other than the one at which the person was previously employed, if applicable, is required;
- (5) The applicant must have passed an examination conducted by the board as provided in Sec. 17-88-304.

17-88-303. Issuance pursuant to examination.

- (a) The board shall register as an occupational therapist and shall issue a license to any person who satisfactorily passes the examination provided for in Sec. 17-88-304 and who otherwise meets the requirements for qualifications

contained in this sub-chapter and pays a fee as determined by the committee.

- (b) The board shall register as an occupational therapy assistant, and shall issue a license to, any person who satisfactorily passes the examination provided for in Sec. 17-88-304 and who otherwise meets the qualifications contained herein and pays a fee as determined by the committee.

17-88-304. Examinations.

- (a) (1) Any person applying for licensure shall, in addition to demonstrating his eligibility in accordance with the requirements of Sec. 17-88-302, make application to the board for examination at least thirty (30) days prior to the date of examination upon a form and in a manner as the board shall prescribe.
- (2) The application shall be accompanied by a fee to be determined by the committee. The fee shall not be refunded.
- (b) (1) An applicant who fails an examination may make reapplication for reexamination accompanied by the prescribed fee.
- (2) Any applicant who fails three (3) examinations must take additional educational work in the areas of weakness as deemed necessary by the committee before being eligible for reexamination.
- (c) (1) Each applicant for licensure under this chapter shall be examined by the board to test his knowledge of the basic and clinical sciences relating to occupational therapy and to occupational therapy theory and practice.
- (2) The knowledge tested will include the applicant's professional skills and judgment in the utilization of occupational therapy techniques and methods and any other subjects the board, with the advice of the committee, may deem useful to determine the applicant's fitness to practice.
- (3) The committee shall establish standards for acceptable performance.
- (d) (1) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine.
- (2) Examination shall be given at least twice each year at such places within this state as the board may determine. The board shall give reasonable public notice of the examination in accordance with its rules at least sixty (60) days prior to their administration and shall notify by mail all individual examination applicants of the time and place of their administration.
- (e) Applicants may obtain their examination scores and may review their papers in accordance with such rules as the board may establish.

17-88-305. Reciprocity.

- (a) A licensed occupational therapist who has been issued a license to practice occupational therapy in another state or territory whose requirements for registration and licensure were equal at the time of his registration to the requirements in this chapter may be registered and issued a license by the board, provided the state or territory from which the applicant comes accords a similar privilege of registration and licensure to persons

registered and licensed in the State of Arkansas by the board.

- (b) The issuance of a license by reciprocity by the board shall be at the sole discretion of the board, and the board may provide such rules and regulations governing admission as it may deem necessary or desirable.
- (c) Any occupational therapist or occupational therapy assistant who has been certified by the American Occupational Therapy Association and who has been in continuous practice for the past five (5) years and who comes to Arkansas from a state presently not granting reciprocity or from a state not requiring licensing shall be eligible for licensing in Arkansas.

17-88-306. Temporary licenses.

- (a) The secretary of the board shall issue a temporary license without examination to practice occupational therapy in association with an occupational therapist licensed under this chapter to persons who have completed the education and experience requirements of this chapter and who are required to be licensed in order to obtain employment as an occupational therapist.
- (b) The temporary license shall be valid until the date on which the results of the next qualifying examination have been made public.
- (c) This temporary license shall only be renewed once if the applicant has not passed the examination or if the applicant has failed to take the qualifying examination, unless that failure is justified by good cause acceptable at the discretion of the secretary of the board.

17-88-307. Re-registration.

- (a) (1) A renewal or re-registration fee, which shall be determined by the Committee, shall be paid to the board by each occupational therapist who holds a license to practice occupational therapy in the State of Arkansas.
- (2) The committee will also establish additional requirements for license renewal which provide evidence of continued competency.
- (b) The re-registration fee shall be paid before or during the birth month of the license holder beginning in 1998, and each year thereafter. During the implementation year of 1998, fees shall be prorated.
- (c) (1) Failure to re-register and pay the re-registration fee by the last day of the birth month of the license holder shall cause the license of any person so failing to pay the registration fee to expire automatically.
- (2) Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty, to be determined by the committee, for each year or part of a year it has been delinquent.
- (3) Any person who shall fail to re-register and pay the annual license fee for five (5) consecutive years shall be required to be reexamined by the board before his license may be reinstated.

17-88-308. Display of license or renewal certificate.

Each licensee shall display his license and renewal certificate in a conspicuous place in the principal office where he practices occupational therapy.

17-88-309. Denial, revocation, or suspension - Grounds.

- (a) After notice and hearing, the board may deny or refuse to renew a license or may suspend or revoke a license where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.
- (b) Unprofessional conduct shall include:
 - (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
 - (2) Being guilty of unprofessional conduct or gross negligence as defined by rules established by the committee or violating the code of ethics adopted and published by the committee;
 - (3) Treating, or undertaking to treat, ailments of human beings otherwise than by occupational therapy, as authorized by this chapter;
 - (4) Being convicted of a crime, other than minor offenses defined as "minor misdemeanors," "violations," or "offenses," in any court if the acts for which the applicant or licensee was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant;
 - (5) Using any narcotic drug or alcohol to an extent that impairs the ability to perform the work of an occupational therapist or occupational therapy assistant with safety to the public.
- (c) The procedure hereunder on all refusals, revocations, and suspensions of license shall be as prescribed by the Arkansas Administrative Procedure Act, as amended, Sec. 25-15-201 et seq.

17-88-310. Denial, revocation, or suspension - Proceedings.

- (a) (1) Any person may file a complaint with the board against any person having a license to practice occupational therapy in this state charging the person with having violated the provisions of Sec. 17-88-309.
- (2) The complaint shall set forth a specification of charges in sufficient detail so as to disclose to the accused fully and completely the alleged acts of misconduct for which he is charged.
- (b) When a complaint is filed, the secretary of the board shall mail a copy to the accused by registered mail at his last address of record. With the copy shall be a written notice of the time and place of hearing and advising him that he may be present in person and by counsel, if he so desires, to offer evidence and be heard in his defense.
- (c) (1) At the time and place fixed for a hearing before the board, the board shall receive evidence upon the subject matter under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his defense.
- (2) The board shall not be bound by strict or technical rules of evidence but shall consider all evidence fully and fairly. However, all oral testimony considered by the board must be under oath.
- (3) All hearings and appeals shall be conducted in accordance with the provisions of the Arkansas Administrative Procedure Act, as amended, Sec. 25-15-201 et seq.

- (4) All evidence considered by the board shall be construed so as not to deprive any person of his or her rights without full, fair, and impartial hearing.

17-88-311. Unlawful practice - Injunction.

- (a) The courts of record in this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of occupational therapy in the county in which the alleged unlawful practice occurred or in which the defendant resides.
- (b) The issuance of an injunction shall not relieve a person from criminal prosecution for violation of this chapter, but the remedy of injunction shall be in addition to criminal prosecution.

17-88-312. Unlawful use of professional title - Penalty.

- (a) (1) It is unlawful for any person who is not licensed under this chapter as an occupational therapist or an occupational therapy assistant or whose registration has been suspended or revoked, to use, in connection with his name or place of business, the words "Occupational Therapist," "Licensed Occupational Therapist," "Occupational Therapist Registered," "Occupational Therapy Assistant," "Licensed Occupational Therapy Assistant," "Certified Occupational Therapy Assistant," or the letters "O.T.," "L.O.T.," "O.T.R.," "O.T.A.," "L.O.T.A.," or "C.O.T.A.," or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist or an occupational therapy assistant.
- (2) It is also unlawful for any such person, in any way, orally, in writing, in print, or by sign, directly or by implication, to represent himself as an occupational therapist or an occupational therapy assistant.
- (b) Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned in the county jail for a period of not less than one (1) month nor more than six (6) months, or be both fined and imprisoned. Each day of violation shall constitute a separate offense.

**RESPIRATORY CARE PRACTITIONERS
SUBCHAPTER 1 - GENERAL PROVISIONS**

17-99-101. Title.

This chapter shall be cited as the "Arkansas Respiratory Care Act."

17-99-102. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) (A) "Respiratory care" means the practice of the principles, techniques, psychology, and theories of cardiopulmonary medicine under the verbal or written direction or prescription of a licensed physician and/or under the supervision of a qualified medical director.
- (B) Respiratory care will include, but not be limited to, the following:
 - (i) Evaluation and treatment of individuals whose cardiopulmonary functions have been threatened or impaired by developmental defects, the aging process, physical injury or disease, or anticipated dysfunction of the cardiopulmonary system;

- (ii) Evaluation techniques including cardiopulmonary function assessment, gas exchange evaluation, the need and effectiveness of therapeutic modalities and procedures, and assessment and evaluation of the need for extended care and home care procedures and equipment; and
- (iii) (a) The professional application of techniques, equipment, and procedures involved in the administration of respiratory care such as:
 - (1) Therapeutic gas administration;
 - (2) Prescribed medications;
 - (3) Emergency cardiac, respiratory, and cardiopulmonary resuscitation measures;
 - (4) Establishing and maintaining artificial airways;
 - (5) Cardiopulmonary function tests;
 - (6) Testing and obtaining physiological evaluation of arterial and venous blood samples;
 - (7) Exercises designed for the rehabilitation of the cardiopulmonary handicapped;
 - (8) Maintaining postural drainage, vibration and chest percussion, aerosol administration, breathing exercises, artificial and mechanical ventilation; and
 - (9) Cleaning and sterilization of cardiopulmonary function equipment and its maintenance.
- (b) Those techniques may be applied in the treatment of the individual or patient in groups or through health care facilities, organizations or agencies;
- (2) "Respiratory care practitioner" means a licensed person who practices respiratory care as defined in this chapter under the prescription and direction of a licensed physician;
- (3) "Board" means the Arkansas State Medical Board;
- (4) "Committee" means the Arkansas State Respiratory Care Examining Committee;
- (5) "Qualified Medical Director" means a licensed physician who is the medical director of any inpatient or outpatient respiratory care service, department or home care agency, or long-term care facility.
- (6) "Licensed allied health practitioner" means any person formally trained and tested in an allied health field, qualified to deliver medical care to the public, and licensed in the State of Arkansas.

History. Acts 2001, No. 1049, § 2. March 23, 2001

17-99-103. Penalty - Injunction.

- (a) Any person violating the provisions of this chapter shall be guilty of a misdemeanor. Upon conviction, that person shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by imprisonment in the county jail for a period of not less than one (1) month nor more than six (6) months, or by both fine and imprisonment. Each day of violation shall constitute a separate offense.

- (b) The courts of record in this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of respiratory care in the county in which the alleged unlawful practice occurred or in which the defendant resides. The issuance of an injunction shall not relieve a person from criminal prosecution for violation of this chapter, but the remedy of injunction shall be in addition to liability from criminal prosecution.

**SUBCHAPTER 2 -
REGULATORY AGENCIES**

17-99-201. Medical board - Powers and duties.

- (a) The Board shall administer the provisions of this chapter.
- (b) The board, with the advice and assistance of the Arkansas State Respiratory Care Examining Committee, shall:
 - (1) Pass upon the qualifications of applicants for licensure;
 - (2) Provide for a nationally standardized examination;
 - (3) Determine the applicants who successfully pass the examinations; and
 - (4) License those applicants who meet the qualifications provided in this chapter.
- (c) In addition to the other powers and duties set out elsewhere in this chapter, the board shall:
 - (1) Adopt and put into effect rules and regulations to carry this chapter into effect;
 - (2) Investigate reported violations of this chapter and take such steps as may be necessary to enforce the chapter;
 - (3) (A) Keep a record of its proceedings and a record of all persons registered under this chapter.
 - (B) The register shall show:
 - (i) The name of every registrant;
 - (ii) His last known place of business;
 - (iii) His last known place of residence; and
 - (iv) The date and number of his license;
 - (4) (A) Compile a list, which shall be printed annually, of all respiratory care practitioners who are licensed to practice respiratory care in the State of Arkansas.
 - (B) It shall furnish a copy of the list to all persons requesting it upon the payment of such a fee as may be fixed by the board to compensate for the cost of printing the list;
 - (5) (A) With the advise and assistance of the Arkansas Respiratory Care Examining Committee, adopt rules and regulations for issuance of temporary permits for students and graduates of approved training programs to practice limited respiratory care under the supervision of a licensed respiratory care practitioner or physician.
 - (B) Rules and regulations shall be adopted defining for the purposes of this chapter the terms 'students', 'limited', 'supervision', and 'approved training programs'; and
 - (6) With the advice and assistance of the Arkansas Respiratory Care Examining Committee, adopt rules and regulations for the issuance of licenses for respiratory care practitioners and put them into effect.

17-99-202. Medical Board - Meetings.

- (a) The board shall hold its regular meetings on the fourth Thursday in November and the fourth Thursday in June and

shall have the power to call special meetings at such times as it deems necessary.

- (b) It may meet at such places as a majority may agree upon, consulting the convenience of the board and applicants for examination and certificates.

17-99-203. Arkansas State Respiratory Care Examining Committee.

- (a) There is created the Arkansas State Respiratory Care Examining Committee to assist the board in carrying out the provisions of this chapter.
- (b) The examining committee shall consist of five (5) members, appointed by the Governor for a term of three (3) years:
 - (1) One (1) member shall be a board certified anesthesiologist. The Governor shall appoint that member upon the advice and recommendation of the Arkansas State Medical Board;
 - (2) One (1) member shall be a member of the American College of Chest Physicians. The Governor shall appoint that member upon the advice and recommendation of the Arkansas State Medical Board;
 - (3) Three (3) members shall be licensed under this chapter. The Governor shall appoint those members upon the advice and recommendation of the Arkansas Society for Respiratory Care.
- (c)
 - (1) The examining committee shall meet with the board at its regular meetings and assist in conducting all examinations and shall have the power to call special meetings at such times as it deems necessary.
 - (2) A majority of the committee shall have the power to call a special meeting.

17-99-204. Board responsibility for finances - Compensation for committee.

- (a) All fees and penalties provided for in this chapter shall be received by the Arkansas State Medical Board and shall be expended by them in furtherance of the purposes of this chapter and in accordance with the provisions of Sec. 17-95-305.
- (b) The members of the Arkansas State Respiratory Care Examining Committee shall receive as compensation for their services such sums as the board shall deem appropriate.
- (c) It shall not be lawful for the board or any member of the board, in any manner whatever, or for any purpose, to charge or obligate the State of Arkansas for the payment of any money whatever.

17-99-205. Continuing education.

The board, in cooperation with the Arkansas Society for Respiratory Care, shall develop and implement rules and regulations for continuing education.

History. Acts 2001, No. 1049, § 1. March 23, 2001

SUBCHAPTER 3 - LICENSING

17-99-301. License required - Exceptions.

- (a) It shall be unlawful for any person to practice respiratory care or to profess to be a respiratory care practitioner or to use any initials, letters, words, abbreviations, or insignia which indicate that he is a respiratory care practitioner, or to practice or to assume the duties incident to respiratory care without first obtaining from the board a license authorizing the person to practice respiratory care in this state.
- (b)
 - (1) Nothing in this chapter shall be deemed to prohibit any person licensed under any act in this state from engaging in the practice for which he is licensed.
 - (2) A licensed registered nurse or a licensed practical nurse qualified in and engaged in respiratory care under the supervision of a licensed physician shall be exempt from the requirement of obtaining a license to practice respiratory care.
 - (A) A licensed physician or a licensed advanced practice nurse shall be exempt from the requirement of obtaining a license to practice respiratory care.
 - (B) A licensed registered nurse or a licensed practical nurse qualified in and engaged in respiratory care under the supervision of a licensed physician or a licensed advanced practice nurse within the terms of their collaborative agreement shall be exempt from the requirement of obtaining a license to practice respiratory care.
 - (C) A licensed allied health practitioner who passes an examination that included content in one or more of the functions included in the definition of respiratory care shall not be prohibited from performing such procedures as he or she was tested.
 - (3) Nothing in this chapter shall be construed to prohibit or to require a license hereunder with respect to:
 - (A) The rendering of services in case of an emergency; and
 - (B) The administration of oxygen or other resuscitation procedures to participants in or spectators at athletic events;
 - (C) Any person pursuing a course of study leading to a degree or certificate in respiratory care at an accredited or approved educational program by the Committee, if the activities and services constitute a part of the supervised course of study and the person is designated by a title which clearly indicates the student or trainee status;
 - (D) Self-care by a patient, or gratuitous care by a friend or family member who does not represent or hold himself out to be a respiratory care practitioner;
 - (E) The respiratory care practitioner who demonstrates advances in the art and techniques of respiratory care learned through formalized or specialized training;
 - (F) Any person working in the military service or federal health care facilities when functioning in the course of their assigned duties;
 - (G) Any person who has demonstrated his competency in one or more areas covered by this chapter who performs only those functions that

he is qualified by examination to perform. The Committee and the Board shall have the authority to evaluate the standards of examinations and examining organizations and to reject qualification by inadequate examinations and examining organizations;

- (H) Medically trained personnel employed in a designated critical access hospital licensed as such by the Department of Health.
- (I) The practice of Respiratory Care, when done in connection with the practice of the religious principles or tenets of any well-recognized church or denomination which relies upon prayer or spiritual means of healing.

History. Acts 2001, No. 1049, § 3. March 23, 2001

17-99-302. Qualifications and examination of applicants - Fees - Waiver.

- (a) The board shall register as a respiratory care practitioner and shall issue a license to:
 - (1) any person who satisfactorily passes the examination provided for in this chapter and who otherwise meets the requirements for qualification contained herein and pays a fee not to exceed one hundred and fifty dollars (\$150.00);
 - (2) any person who furnishes sufficient and satisfactory written evidence to the Board that the person has received registration and/or certification by the National Board for Respiratory Care, or successor organization, and who shall, at the time of his or her application, pay the Board a fee not to exceed one hundred and fifty dollars (\$150.00);
 - (3) any person, whether or not he has passed the examination provided for in this chapter, who through a notarized affidavit, submitted to the Board by January 1, 1996, demonstrates that he, as of September 1, 1995, or within the three (3) year period prior to September 1, 1995, is or was providing respiratory care as defined in Arkansas Code 17-99-102, and who submits an application and a fee not to exceed one hundred and fifty dollars (\$150.00).
- (b) Each applicant must:
 - (1) Be at least eighteen (18) years of age;
 - (2) Be of good moral character;
 - (3) Have been awarded a high school diploma or its equivalent;
 - (4) Have satisfactorily completed training in a respiratory care program which has been approved by the Committee, to include adequate instruction in basic medical science, clinical science, and respiratory care theory and procedures; and
 - (5) Have passed a written examination approved by the board and the committee, unless exempted by other provisions of this chapter.
- (c) All examinations of applicants for a license to practice respiratory care shall be held in designated areas of the state at a time and place published by the testing board.
- (d) Applicants shall be given written examinations on the following subjects:
 - (1) Clinical data;
 - (2) Equipment; and

- (3) Therapeutic procedures.
- (e) A fee not to exceed the sum of the prevailing rate set by the National Board for Respiratory Care or successor organization must accompany the application.
- (f) (1) Any person, whether or not he or she has passed the examination provided for in this chapter, who through a notarized affidavit, submitted to the board by January 1, 2002, demonstrates that he or she has been engaged in the practice of respiratory care for at least two (2) years during the three (3) consecutive years prior to September 1, 2001 and who submits an application and a fee not to exceed one hundred fifty dollars (\$150.00).
- (2) Any person licensed under this provision must complete the entry-level requirements for certification in respiratory care and must, no later than January 1, 2005, pass the examination provided for in this chapter.

History. Acts 2001, No. 1049, § 4, 5, 6. March 23, 2001

17-99-303. Issuance and recording.

- (a) The board shall register as a respiratory care practitioner each applicant who provides evidence of his fitness for licensure under the terms of this chapter.
- (b) It shall issue to each person registered a license which shall be prima facie evidence of the right of the person to practice respiratory care, subject to the conditions and limitations of this chapter.
- (c) Proof of licensure must be made upon request.
- (d) Whenever the Board determines, for any reason, not to issue a license it shall enter an order denying the application. Whenever the Board determines, for any reason, to suspend, revoke, or refuse to renew a license, it shall enter an order taking that action. All review proceedings shall be governed by the Administrative Procedure Act, Arkansas Code 25-15-201, et seq.

17-99-304. Reciprocity.

- (a) A legally licensed practitioner who has been issued a license to practice respiratory care in another state or territory whose requirements for registration and licensure were, at the time of his registration or licensure, equal to the requirements contained in this chapter may be registered and issued a license by the board if the state or territory from which the applicant comes accords a similar privilege of registration and licensure to persons registered and licensed in the State of Arkansas by the board.
- (b) The issuance of the license by reciprocity by the board shall be at the sole discretion of the board, and the board may provide rules and regulations concerning such admission as it may deem necessary or desirable.

17-99-305. Temporary permits.

In cases of emergency, the executive secretary of the board may issue a temporary permit without examination to practice respiratory care to persons who are not licensed in other states but who otherwise meet the qualifications for licensure set out in this chapter. Such emergency temporary license shall expire at the date of the next Board meeting unless the Board ratifies or extends the action of the executive secretary.

17-99-306. Annual registration - Failure to re-register.

- (a) (1) A license or re-registration fee not to exceed fifty dollars (\$50.00) shall be paid to the board by each respiratory care practitioner who holds a license to practice respiratory care in the State of Arkansas.
- (2) The re-registration fee shall be paid before the birth month of the license holder beginning in 1998, and each year thereafter. During the implementation year of 1998, fees shall be prorated.
- (3) Failure to re-register and pay the fee by the last day of the birth month of the license holder shall cause the license of any person so failing to re-register to expire automatically.
- (b) (1) Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty not to exceed fifty dollars (\$50.00) for each year or part of year it has been delinquent.
- (2) Any person who shall fail to re-register and pay the annual license fee for five (5) or more consecutive years shall be required to be reexamined by the board before the license may be reinstated.

17-99-307. Denial, suspension, or revocation - Grounds.

The board, after due notice and hearing, may revoke, suspend or refuse to renew any license or permit or place on probation or otherwise reprimand a licensee or permit holder, or deny a license to an applicant who:

- (1) is habitually drunk or who is addicted to the use of narcotic drugs;
- (2) is, in the judgment of the board, guilty of immoral or unprofessional conduct;
- (3) has been convicted of any crime involving moral turpitude;
- (4) is guilty, in the judgment of the board, of gross negligence in his practice as a respiratory care practitioner;
- (5) has obtained, or attempted to obtain, registration by fraud or material misrepresentations;
- (6) has treated, or undertaken to treat, ailments of human beings other than by respiratory care and as authorized by this chapter, or who has undertaken to practice independent of the prescription and direction of a licensed physician; or
- (7) has been found to have violated any provisions of this chapter or rules and regulations of the Committee or Board.

17-99-308. Denial, suspension, or revocation - Procedure.

- (a) The procedure on all refusals, revocations, and suspensions of registration shall be prescribed by the Medical Practices Act, Sec. 17-95-201 et seq.
- (b) (1) Any person may file a complaint with the board against any person having a license to practice respiratory care in this state charging the person with having violated the provisions of Sec. 17-99-307.
- (2) The complaint shall set forth a specification of charges in sufficient detail so as to disclose to the accused fully and completely the alleged acts of misconduct for which he is charged.
- (3) When the complaint is filed, the secretary of the board shall mail a copy to the accused by registered mail at his last address of record, with a written notice of the time and place of hearing, advising

him that he may represent in person and by counsel, if he so desires, to offer evidence and be heard in his defense.

- (c) (1) At the time and place fixed for a hearing before the board, the board shall receive evidence upon the subject matter under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his defense.
- (2) The board shall not be bound by strict or technical rules of evidence but shall consider all evidence fully and fairly. However, all oral testimony considered by the board must be under oath.
- (d) (1) Appeal may be had by either of the parties from the decision of the board as now provided by law.
- (2) All evidence considered by the board shall be reduced to writing and available for the purposes of appeal.
- (e) Nothing in this section shall be construed so as to deprive any person of his or her rights without full, fair, and impartial hearing.

17-99-309. Out-of-state licenses.

A legally licensed practitioner who has been issued a license to practice respiratory care in another state or territory whose requirements for licensure were equal at the time of his licensure to the requirements contained in this chapter may be license by the Board, provided the state or territory from which the applicant comes accords a similar privilege of registration and licensure to persons licensed in the State of Arkansas by the Board. The issuance of a license by reciprocity by the Board shall be a the sole discretion of the Board.

17-99-310. Medical Director - Powers and duties.

A qualified medical director shall:

- (1) be readily available to respiratory care practitioners employed by or providing services for the organization he directs; and
- (2) establish a policy that prohibits any person from ordering respiratory care for a patient except a physician who has medical responsibility for the patient.

17-94-101—17-94-113. [Repealed effective October 1, 1999.]

PHYSICIAN ASSISTANTS

17-105-101. Definitions.

As used in this chapter:

- (1) "Board" means the Arkansas State Medical Board;
- (2)(A) "Physician assistant" means a person who has:
 - (i) Graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs; and
 - (ii) Passed the certifying examination administered by the National Commission on Certification of Physician Assistants.
- (B) The physician assistant is a dependent medical practitioner who:
 - (i) Provides health care services under the supervision of a physician; and
 - (ii) Works under a physician-drafted protocol approved by the Arkansas State Medical Board, which

- describes how the physician assistant and the physician will work together and any practice guidelines required by the supervising physician;
- (3) "Supervision" means overseeing the activities of and accepting responsibility for the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, electronic, or other telecommunication device. Supervision of each physician assistant by a physician or physicians shall be continuous; and
 - (4) "Supervising physician" means a doctor of medicine or doctor of osteopathy licensed by the board who supervises physician assistants.

History. Acts 1999, No. 851, § 1.

17-105-102. Qualifications for licensure.

- (a) Except as otherwise provided in this chapter, an individual must be licensed by the Arkansas State Medical Board before the individual may practice as a physician assistant.
- (b) The board may grant a license as a physician assistant to an applicant who:
 - (1) Submits an application on forms approved by the board;
 - (2) Pays the appropriate fees as determined by the board;
 - (3) Has successfully completed an educational program for physician assistants or surgeon assistants accredited by the Committee on Allied Health education and Accreditation or by its successor agency and has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;
 - (4) Certifies that he or she is mentally and physically able to engage safely in practice as a physician assistant;
 - (5) Has no licensure, certification, or registration as a physician assistant under current discipline, revocation, suspension, or probation for cause resulting from the applicant's practice as a physician assistant, unless the board considers such condition and agrees to licensure;
 - (6) Is of good moral character;
 - (7) Submits to the board any other information the board deems necessary to evaluate the applicant's qualifications;
 - (8) Has been approved by the board;
 - (9) Is at least twenty-one (21) years of age; and
 - (10) After July 1, 1999, has at least a bachelor's degree in some field of study from a regionally accredited college or university, unless the applicant has:
 - (A) Prior service as a military corpsman and is a graduate of a physician assistant education program recognized by the Committee on Allied Health education and Accreditation or the Commission on Accreditation of Allied health Education Programs or the applicant is currently certified by the National Commission on Certification of Physician Assistants;

- (B) Was serving as a physician assistant in a federal facility located in the State of Arkansas on or after July 1, 1999, and who is a graduate of a physician assistant education program recognized by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs;
- (C) Was licensed in good standing on June 30, 1999, by the Arkansas State Medical Board; or
- (D) Was enrolled on or before July 1, 1999, in a physician assistant program recognized by the Commission on Accreditation of Allied Health Education Programs.

History. Acts 1999, No. 851, § 2.

17-105-103. Graduate license — Temporary license.

- (a) The Arkansas State Medical Board may grant a graduate license to an applicant who meets the qualifications for licensure, except that the applicant has not yet taken the national certifying examination or the applicant has taken the national certifying examination and is awaiting the results.
- (b) A graduate license is valid:
 - (1) For one (1) year from the date of issuance;
 - (2) Until the results of an applicant's examination are available; or
 - (3) Until the board makes a final decision on the applicant's request for licensure, whichever comes first.
- (c) The board may extend a graduate license upon a majority vote of the board members for a period not to exceed one (1) year. Under no circumstances may the board grant more than one (1) extension of a graduate license.
- (d) A temporary license may be granted to an applicant who meets all the qualifications for licensure but is awaiting the next scheduled meeting of the board.

History. Acts 1999, No. 851, § 3.

17-105-104. Inactive license.

Any physician assistant who notifies the Arkansas State Medical Board in writing on forms prescribed by the board may elect to place his or her license on inactive status. A physician assistant with an inactive license shall be excused from payment of renewal fees and shall not practice as a physician assistant. Any licensee who engages in practice while his or her license is lapsed or on inactive status shall be considered to be practicing without a license, which shall be grounds for discipline under § 17-105-113. A physician assistant requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to meet the criteria for renewal as specified in § 17-105-105.

History. Acts 1999, No. 851, § 4.

§ 17-105-105. Renewal.

Upon notification from the Arkansas State Medical Board, each person who holds a license as a physician assistant in this state shall renew the license by:

- (1) Submitting the appropriate fee as determined by the board;
- (2) Completing the appropriate forms; and
- (3) Meeting any other requirements set forth by the board.

History. Acts 1999, No. 851, § 5.

§ 17-105-106. Exemption from licensure.

Nothing in this chapter shall be construed to require licensure of:

- (1) A physician assistant student enrolled in a physician assistant or surgeon assistant educational program accredited by the Committee on Allied Health Education and Accreditation or by its successor agency;
- (2) A physician assistant employed in the service of the federal government while performing duties incident to that employment;
- (3) Technicians, other assistants, or employees of physicians who perform delegated tasks in the office of a physician but who are not rendering services as a physician assistant or identifying themselves as a physician assistant;
- (4) A physician assistant in the service of the State Military Department or the Arkansas National Guard or both. These physician assistants shall be allowed to perform their physician assistant practice duties, including prescribing, in the same manner as they would if federalized by the United States Government; or
- (5) A physician assistant who is temporarily transiting through the State of Arkansas while caring for a patient, provided that he or she remains under the supervision of his or her supervising physician.

History. Acts 1999, No. 851, § 6.

17-105-107. Scope of authority — Delegatory authority — Agent of supervising physician.

- (a) Physician assistants provide health care services with physician supervision. The supervising physician shall be identified on all prescriptions and orders. Physician assistants may perform those duties and responsibilities, including the prescribing, ordering, and administering drugs and medical devices, that are delegated by their supervising physicians.
- (b) Physician assistants shall be considered the agents of their supervising physicians in the performance of all practice-related activities, including but not limited to, the ordering of diagnostic, therapeutic, and other medical services.
- (c) Physician assistants may perform health care services in any setting authorized by the supervising physician in accordance with any applicable facility policy.
- (d) Nothing in this chapter shall be construed to authorize a physician assistant to:
 - (1) Examine the human eye or visual system for the purpose of prescribing glasses or contact lenses or the determination of the refractive power for surgical procedures;
 - (2) Adapt, fill, duplicate, modify, supply, or sell contact lenses or prescription eye glasses; or
 - (3) Prescribe, direct the use of, or use any optical device in connection with ocular exercises, vision training, or orthoptics.

History. Acts 1999, No. 851, § 7.

17-105-108. Prescriptive authority.

- (a) Physicians supervising physician assistants may delegate prescriptive authority to physician assistants to include prescribing, ordering, and administering Schedule III through V controlled substances as described in the Uniform Controlled Substances Act, § 5-64-101— 5-64-608, and 21 C.F.R. Part 1300, all legend drugs, and all nonschedule

prescription medications and medical devices. All prescriptions and orders issued by a physician assistant shall also identify his or her supervising physician.

- (b) At no time shall a physician assistant's level of prescriptive authority exceed that of the supervising physician.
- (c) Physician assistants who prescribe controlled substances must register with the Drug Enforcement Administration as part of the Drug Enforcement Administration's Mid-Level Practitioner registry, 21 C.F.R. Part 1300, 58 FR 31171-31175, and the Federal Controlled Substances Act.

History. Acts 1999, No. 851, § 8.

17-105-109. Supervision.

- (a) Supervision of physician assistants shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place that the services are rendered.
- (b) It is the obligation of each team of physicians and physician assistants to ensure that:
 - (1) The physician assistant's scope of practice is identified;
 - (2) The delegation of medical task is appropriate to the physician assistant's level of competence;
 - (3) The relationship and access to the supervising physician is defined; and
 - (4) A process of evaluation of the physician assistant's performance is established.
- (c) The physician assistant and supervising physician may designate back-up physicians who are agreeable to supervise the physician assistant during the absence of the supervising physician.

History. Acts 1999, No. 851, § 9.

17-105-110. Supervising physician.

A physician desiring to supervise a physician assistant must:

- (1) Be licensed in this state;
- (2) Notify the Arkansas State Medical Board of his intent to supervise a physician assistant; and
- (3) Submit a statement to the board that he will exercise supervision over the physician assistant in accordance with any rules adopted by the board.

History. Acts 1999, No. 851, § 10.

17-105-111. Notification of intent to practice.

- (a) Prior to initiating practice, a physician assistant licensed in this state must submit on forms approved by the Arkansas State Medical Board notification of such intent. The notification shall include:
 - (1) The name, business address, e-mail address, and telephone number of the supervising physician; and
 - (2) The name, business address, and telephone number of the physician assistant.
- (b) A physician assistant shall notify the board of any changes or additions in supervising physicians within ten (10) calendar days.

History. Acts 1999, No. 851, § 11.

17-105-112. Exclusions of limitations of employment.

Nothing in this chapter shall be construed to limit the employment arrangement of a physician assistant licensed under this chapter.

History. Acts 1999, No. 851, § 12.

17-105-113. Violation.

Following the exercise of due process, the Arkansas State Medical Board may discipline any physician assistant who:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license;
- (2) Fraudulently or deceptively uses a license;
- (3) Violates any provision of this chapter or any regulations adopted by the board pertaining to this chapter;
- (4) Is convicted of a felony;
- (5) Is a habitual user of intoxicants or drugs to such an extent that he or she is unable to safely perform as a physician assistant;
- (6) Has been adjudicated as mentally incompetent or has a mental condition that renders him or her unable to safely perform as a physician assistant;
- (7) Has committed an act of moral turpitude; or
- (8) Represents himself or herself as a physician.

History. Acts 1999, No. 851, § 13.

17-105-114. Disciplinary authority.

Upon finding that a physician assistant has committed any offense described in § 17-105-113, the Arkansas State Medical Board may:

- (1) Refuse to grant a license;
- (2) Administer a public or private reprimand;
- (3) Revoke, suspend, limit, or otherwise restrict a license;
- (4) Require a physician assistant to submit to the care, counseling, or treatment of a physician or physicians designated by the board;
- (5) Suspend enforcement of its finding thereof and place the physician assistant on probation with the right to vacate the probationary order for noncompliance; or
- (6) Restore or reissue, at its discretion, a license and impose any disciplinary or corrective measure which it may have imposed.

History. Acts 1999, No. 851, § 14.

17-105-115. Title and practice protection.

- (a) Any person not licensed under this chapter is guilty of a Class A misdemeanor and is subject to penalties applicable to the unlicensed practice of medicine if he or she:
 - (1) Holds himself or herself out as a physician assistant;
 - (2) Uses any combination or abbreviation of the term "physician assistant" to indicate or imply that he or she is a physician assistant; or
 - (3) Acts as a physician assistant.
- (b) An unlicensed physician shall not be permitted to use the title of physician assistant or to practice as a physician assistant unless he or she fulfills the requirements of this chapter.

History. Acts 1999, No. 851, § 15.

17-105-116. Identification requirements.

Physician assistants licensed under this chapter shall keep their license available for inspection at their primary place of business and when engaged in their professional activities shall wear a name tag identifying themselves as a physician assistant.

History. Acts 1999, No. 851, § 16.

17-105-117. Rule-making authority.

- (a) The Arkansas State Medical Board shall promulgate regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., that are reasonable and necessary for the performance of the various duties imposed upon the board by this chapter, including but not limited to:

- (1) Establishing license renewal dates; and
- (2) Setting the level of liability coverage.

- (b) The board may levy the following fees:

- (1) Physician assistant application for licensure fee, eighty dollars (\$80.00);
- (2) Initial application fee for the physician employer, fifty dollars (\$50.00);
- (3) Physician assistant annual relicensure fee, fifty dollars (\$50.00);
- (4) Physician assistant delinquent licensure fee, twenty-five dollars (\$25.00) for each delinquent year or part thereof;
- (5) Physician assistant application for graduate or temporary licensure fee, ten dollars (\$10.00); and
- (6) Physician assistant one-time extension graduate licensure fee, forty dollars (\$40.00).

- (c) The board may appoint a physician assistant advisory committee to assist in the administration of this chapter.

History. Acts 1999, No. 851, § 17.

17-105-118. Regulation by the Arkansas State Medical Board.

The Arkansas State Medical Board shall administer the provisions of this chapter under such procedures as it considers advisable and may adopt rules that are reasonable and necessary to implement the provisions of this chapter. Further, it is the intent of the General Assembly that the board on behalf of the General Assembly shall make rules clarifying any ambiguities or related matters concerning this chapter, which may not have been specifically addressed.

History. Acts 1999, No. 851, § 18.

17-105-119. Good Samaritan provision.

Physician assistants shall be subject to the Good Samaritan provisions embodied in § 17-95-101.

History. Acts 1999, No. 851, § 19.

17-105-120. Medical services provided by retired physician assistants to less fortunate patient populations.

- (a) Retired physician assistants may practice their medical services under the supervision of a licensed physician and shall be subject to the same provisions as a retired physician or surgeon would be pursuant to § 17-95-106.
- (b) Retired physician assistants practicing under this provision must continue to be licensed by the Arkansas State Medical Board and must practice their medical skills only under the supervision of a licensed physician.

History. Acts 1999, No. 851, § 20.

17-105-121. Physician assistant employment — Uniform Classification Plan.

- (a) The Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration shall establish and maintain a position classification of physician assistant. The initial position classification shall mirror the Veterans Health Administration

Directive 10-95-020 of March 3, 1995, and the United States Department of Veterans Affairs regulation as embodied in:

- (1) MP-5, Part II, Chapter 2, Change 2, Appendix H; and
 - (2) MP-5, Part II, Chapter 5, Change 5.
- (b) Modifications or changes in the future to the state position classification of physician assistant shall only be made based upon the concurrence of the Physician Assistant Advisory Committee.

History. Acts 1999, No. 851, § 21

17-105-122. Physician assistant patient care orders.

- (a) Patient care orders generated by a physician assistant shall be construed as having the same medical, health, and legal force and effect as if the orders were generated by their supervising physician, provided that the supervising physician's name is identified in the patient care order.
- (b) The orders shall be complied with and carried out as if the orders had been issued by the physician assistant's supervising physician.

History. Acts 1999, No. 851, § 22.

17-105-123. Medical malpractice — Professional and legal liability for actions.

Physician assistants shall be covered under the provisions regarding medical malpractice and legal liability as such applies to their supervising physician as embodied in § 16-114-201 — 16-114-203 and 16-114-205 — 16-114-209.

History. Acts 1999, No. 851, § 23.

MEDICAL CORPORATION ACT

4-29-301. Title.

This subchapter may be cited as the "Medical Corporation Act".

4-29-302. Application of Arkansas Business Corporation Act.

- (a) The Arkansas Business Corporation Act, Sec. 4-26-101 et seq., shall be applicable to such corporations, including their organization, except that the required number of incorporators of a medical corporation shall be one (1) or more, and they shall enjoy the powers and privileges and be subject to the duties, restrictions, and liabilities of other corporations, except so far as the same may be limited or enlarged by this subchapter.
- (b) If any provision of this subchapter conflicts with the Arkansas Business Corporation Act, Sec. 4-26-101 et seq., this subchapter shall take precedence.

4-29-303. Physician-patient relationship unaltered.

This subchapter does not alter any law applicable to the relationship between a physician furnishing medical service and a person receiving the service, including liability arising out of the service.

4-29-304. Formation of corporation - Employee licensing required.

One (1) or more persons licensed pursuant to the Arkansas Medical Practices Act, Sec. 17-95-201 et seq., may associate to form a corporation pursuant to the Arkansas Business Corporation Act, Sec. 4-26-101 et seq., to own, operate, and maintain an

establishment for the study, diagnosis, and treatment of human ailments and injuries, whether physical or mental, and to promote medical, surgical and scientific research and knowledge. However, medical or surgical treatment, consultation, or advice may be given by employees of the corporation only if they are licensed pursuant to the Arkansas Medical Practices Act, Sec. 17-95-201 et seq.

4-29-305. Corporate name.

- (a) The corporate name may contain the names of one (1) or more of the shareholders. However, the name of a person who is not employed by the corporation shall not be included in the corporate name, except that the name of a deceased shareholder may continue to be included in the corporate name for one (1) year following the decease of such shareholder.
- (b) The corporate name shall end with the word "Chartered," or the word "Limited," or the abbreviation "Ltd.," or the words "Professional Association," or the abbreviation "P.A."

4-29-306. Officers, directors, and shareholders.

All of the officers, directors, and shareholders of a corporation subject to this subchapter shall at all times be persons licensed pursuant to the Arkansas Medical Practices Act, Sec. 17-95-201 et seq. No person who is not so licensed shall have any part in the ownership, management, or control of the corporation, nor may any proxy to vote any shares of such corporation be given to a person who is not so licensed.

4-29-307. Employees.

Each individual employee licensed pursuant to the Arkansas Medical Practices Act, Sec. 17-95-201 et seq., who is employed by a corporation subject to this subchapter shall remain subject to reprimand or discipline for his conduct under the provisions of the Arkansas Medical Practices Act, Sec. 17-95-201 et seq.

4-29-308. Certificate of registration - Issuance, renewal, etc.

- (a) No corporation shall open, operate, or maintain an establishment for any of the purposes set forth in Sec. 4-29-304 without a certificate of registration from the Arkansas State Medical Board.
- (b) Application for the registration shall be made to the board in writing and shall contain the name and address of the corporation and such other information as may be required by the board.
- (c)
 - (1) Upon receipt of the application, the board shall make an investigation of the corporation.
 - (2) If the board finds that the incorporators, officers, directors, and shareholders are each licensed pursuant to the Arkansas Medical Practices Act, Sec. 17-95-201 et seq., and if no disciplinary action is pending before the board against any of them, and if it appears that the corporation will be conducted in compliance with law and the regulations of the board, the board shall issue, upon payment of a registration fee of twenty-five dollars (\$25.00), a certificate of registration which shall remain effective until January 1 following the date of the registration.
- (d) Upon written application of the holder, accompanied by a fee of ten dollars (\$10.00), the board shall annually renew the certificate of registration if the board finds that the corporation has complied with its regulations and the provisions of this subchapter.

- (e) The certificate of registration shall be conspicuously posted upon the premises to which it is applicable.
- (f) In the event of a change of location of the registered establishment, the board, in accordance with its regulations, shall amend the certificate of registration so that it shall apply to the new location.
- (g) No certificate of registration shall be assignable.

4-29-309. Certificate of registration - Suspension or revocation.

- (a) The Arkansas State Medical Board may suspend or revoke any certificate of registration for any of the following reasons:
 - (1) The revocation or suspension of the license to practice medicine of any officer, director, shareholder, or employee not promptly removed or discharged by the corporation;
 - (2) Unethical professional conduct on the part of any officer, director, shareholder, or employee not promptly removed or discharged by the corporation;
 - (3) The death of the last remaining shareholder; or
 - (4) Upon finding that the holder of a certificate has failed to comply with the provisions of this subchapter or the regulations prescribed by the board.
- (b) Before any certificate of registration is suspended or revoked, the holder shall be given written notice of the proposed action and the reasons therefor and shall be given a public hearing by the board with the right to produce testimony concerning the charges made. The notice shall also state the place and date of the hearing which shall be at least five (5) days after service of the notice.

4-29-310. Certificate of registration - Appeal from denial, suspension, or revocation.

- (a) Any corporation whose application for a certificate of registration has been denied or whose registration has been suspended or revoked may, within thirty (30) days after notice of the action by the board, appeal to the Circuit Court for Pulaski County.
- (b) The court shall inquire into the cause of the board's action and may affirm, or reverse such decision and order a further hearing by the board, or may order the board to grant the appellant a certificate of registration.
- (c) Appeal shall be in the manner provided by law.
- (d) Notice of appeal shall be served upon the secretary of the board by serving the secretary a copy thereof within thirty (30) days after the board has notified the appellant of its decision. The service may be by registered or certified mail.

4-29-311. Shares of deceased or disqualified shareholder - Price.

If the articles of incorporation of bylaws of a corporation subject to this subchapter fail to state a price or method of determining a fixed price at which the corporation or its shareholders may purchase the shares of a deceased shareholder or a shareholder no longer qualified to own shares in the corporation, then the price for the shares shall be the book value as of the end of the month immediately preceding the death or disqualification of the shareholder. Book value shall be determined from the books and

records of the corporation in accordance with the regular method of accounting used by the corporation.

4-32-1401 Certification of registration

- (a) A limited liability company formed under this chapter and that will engage in the practice of medicine must obtain a certificate of registration from the Arkansas State Medical Board and must comply with the statutes of the Medical Corporation Acts as found in Sec. 4-29-301, et seq.
- (b) A limited liability company formed under this chapter and that will engage in the practice of dentistry must obtain a certificate or registration and comply with the statutes in the Dental Corporation Act as found in Sec. 4-29-401, et seq.

REGULATIONS OF THE ARKANSAS STATE MEDICAL BOARD

REGULATION NO. 1

The provisions of the Arkansas Medical Practices Act as now written and future amendments and all other relevant Arkansas statutes shall govern all substantive and procedural acts of the Arkansas State Medical Board.

- 1. A. The Arkansas State Medical Board was established by the Medical Practices Act, Act 65 of 1955 and Act 298 of 1957. The Board is empowered to license and regulate the practice of medicine, occupational therapy, respiratory therapy, and physician assistants.
- B. The Board meets at least quarterly to examine applicants for licensure, hear complaints, and transact other business that comes before it. The dates for quarterly or special meetings shall be determined by the Board. The day to day business of the Board is conducted by the executive secretary.
- C. Persons seeking information from or submitting information to the Board may do so by written communication to the Secretary. Persons seeking copies of documents on file with the Board may be required to remit in advance reasonable payment for the expense of copying the requested documents. The Secretary has license application forms available for interested persons.
- 2. A. The Board holds hearings on licensees pursuant to the Administrative Procedure Act. Upon receipt of information indicating a possible violation of a licensing statute, the Board or its designee may investigate the information and report to the full board. If warranted, a complaint and notice of hearing will be issued informing the licensee of the alleged statutory or regulatory violation, the factual basis of the allegation, and the date, time, and place of the hearing. This complaint and notice of hearing shall be sent at least thirty (30) days in advance of the scheduled hearing date and shall contain a copy of this and any other pertinent regulation.

- B. If the Board receives information indicating that the public health, safety, or welfare requires emergency action, the Board may suspend a person's license pending proceedings for revocation or other action. An emergency order of suspension will be issued informing the licensee of the facts or conduct warranting the suspension, and the date, time, and place of the hearing.
This emergency order shall contain a copy of this and any other pertinent regulation.
- C. A licensee desiring to contest the allegations in a complaint and notice of hearing or an emergency order of suspension shall submit a written answer responding to the factual and legal assertions in the complaint and notice of hearing or emergency order of suspension. At least fifteen (15) days before the scheduled hearing, fifteen (15) copies of the answer shall be given to the secretary, who will distribute the additional copies to the board members, and two copies of the answer shall be given to the Board's attorney. If no answer is received fifteen (15) days before the scheduled hearing, the Board may accept as true the allegations in the complaint and notice of hearing or emergency order of suspension and take appropriate action.
- D. Any request for continuance, subpoenas, or recusal of a board member, or any proposed findings of fact and conclusions of law shall be in writing and must be received by the secretary and the Board's attorney no later than ten (10) days before the scheduled hearing date. fifteen (15) copies shall be given to the secretary, who will distribute a copy to each board member, and two (2) copies shall be given to the Board's attorney. A request for subpoenas, however, shall be by letter to the secretary and the Board's attorney. Any untimely request or submission may be denied solely on the basis of being untimely.
- E. At the scheduled hearing the evidence will be presented to the Board and the licensee or his attorney may cross-examine all witnesses and present witnesses and evidence on his own behalf. The Board may question any witness at any time during the hearing. At the conclusion of all the evidence the Board shall vote on the appropriate action. If any disciplinary action is voted, a written decision and order will be prepared and sent to the licensee.

History: Adopted November 9, 1967; Amended April 21, 1988.

REGULATION NO. 2

The Arkansas Medical Practices Act authorizes the Arkansas State Medical Board to revoke or suspend the license issued by the Board to practice medicine if the holder thereof has been found guilty of grossly negligent or ignorant malpractice.

"Malpractice" includes any professional misconduct, unreasonable lack of skill or fidelity in professional duties, evil practice, or illegal or immoral conduct in the practice of medicine and surgery. It shall include, among other things, but not limited to:

- 1. Violation of laws, regulations, and procedures governing payment to physicians for medical services for eligible

- public assistance recipients and/or other third party payment programs.
- 2. Participation in any plan, agreement, or arrangement which compromises the quality or extent of professional medical services or facilities at the expense of the public health, safety, and welfare.
- 3. Practicing fraud, deceit, or misrepresentation in the practice of medicine.
- 4. The prescribing of excessive amounts of controlled substances to a patient including the writing of an excessive number of prescriptions for an addicting or potentially harmful drug to a patient.
- 5. The prescribing of Schedule II controlled substances by a physician for his own use or for the use of his immediate family.
- 6. *The treatment of pain with dangerous drugs and controlled substances is a legitimate medical purpose when done in the usual course of medical practice. If the provisions as set out below in this Resolution are met, and if all drug treatment is properly documented, the Board will consider such practices as prescribing in a therapeutic manner, and prescribing and practicing medicine in a manner consistent with public health and welfare.

However, a physician who prescribes **narcotic agents Schedule 2, 3, 4, and 5, excluding Schedule 4 Propoxyphene products and to include the schedule drugs Talwin, Stadol, and Nubain, on a long term basis (more than six (6) months) for a patient with pain not associated with malignant or terminal illness will be considered exhibiting gross negligence or ignorant malpractice unless he or she has complied with the following:

- a. The physician will keep accurate records to include the medical history, physical examination, other evaluations and consultations, treatment plan objective, informed consent noted in the patient record, treatment, medications given, agreements with the patient and periodic reviews.
- b. The physician will periodically review the course of schedule drug treatment of the patient and any new information about etiology of the pain. If the patient has not improved, the physician should assess the appropriateness of continued prescribing of scheduled medications or dangerous drugs, or trial of other modalities.
- c. The physician will obtain written informed consent from those patients he or she is concerned may abuse controlled substances and discuss the risks and benefits of the use of controlled substances with the patient, his or her guardian, or authorized representatives.
- d. The physician will be licensed appropriately in Arkansas and have a valid controlled substance registration and comply with the Federal and State regulations for the issuing of controlled substances and prescriptions, more especially the regulations as set forth in 21 Code of Federal Regulations Section 1300, et sequence.
- 7. A licensed physician engaging in sexual contact, sexual relations or romantic relationship with a patient concurrent with the physician-patient relationship; or a licensed physician engaging in the same conduct with a former patient, if the physician uses or exploits trust, knowledge,

emotions or influence derived from the previous professional relationship, shows a lack of fidelity of professional duties and immoral conduct, thus exhibiting gross negligence and ignorant malpractice. A patient's consent to, initiation of, or participation in sexual relationship or conduct with a physician does not change the nature of the conduct nor the prohibition.

8. ****Requiring minimum standards for establishing physician/patient relationships.** A physician exhibits gross negligence if he provides and/or recommends any form of treatment, including prescribing legend drugs, without first establishing a proper physician/patient relationship.
 - A. For purposes of this regulation, a proper physician/patient relationship, at a minimum requires that:
 1. The physician performs a history and physical examination of the patient adequate to establish a diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided, OR personally knows the patient and the patient's general health status through an "ongoing" personal or professional relationship, AND THAT
 2. Appropriate follow-up be provided, when necessary, at medically necessary intervals.
 - B. Exceptions.
 1. Emergency situations where the life or health of the patient is in danger or imminent danger.
 2. Treatment provided in consultation with, or upon referral by, another physician who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including follow-up care and the use of any prescribed medications.
 3. On-call or cross-coverage situations in which the physician has access to patient records.
 4. Simply providing information of a general or generic nature not meant to be specific to an individual patient.

History: Adopted June 17, 1976; Amended March 13, 1997; December 5, 1997; ADOPTED BY EMERGENCY ORDER ON SEPTEMBER 18, 1998 As defined in 21 Code of Federal Regulation; *Approved by the Board following Public Hearing on December 3, 1998; **Adopted April 6, 2001

REGULATION NO. 3

UNRESTRICTED LICENSURE FOR GRADUATES OF FOREIGN MEDICAL SCHOOLS

Unrestricted license may now be applied for by graduates of foreign medical schools provided they can comply with the following requirements and meet the approval of the Board of Medical Examiners:

1. Be twenty-one years of age.
2. Be a citizen of the United States or have filed a Declaration of Intention to become a citizen of the

United States (Certificate of "Declaration of Intention" must be presented.) *VOID as per Act 1219 of 1993.*

3. Be of good moral character
4. If graduated from a medical school which is a member country of the Hague Convention, present in person his or her original diploma (with English translation) from the medical school from which he or she was graduated, together with a letter of recommendation signed by the Dean or any other Senior Administrator of the medical school from which applicant was graduated, Dean's or Administrator's signature to be authenticated by use of an apostille. If graduated from a medical school which is not a member country of the Hague Convention, the medical school Dean's or Administrator's signature is to be authenticated by American Consul in district in which school is located. In any instance in which the Board, in its discretion, finds that compliance with the requirements of this paragraph is impossible because of the diplomatic relations or lack of diplomatic relations between the United States and the country in which the medical school is located from which the applicant has graduated, the Board may waive the requirement of authentication or certification of the signature of the Dean.
5. Demonstrate in personal interview ability to read, write, and speak English fluently; and also demonstrate adequate training and ability sufficient to permit the practice of medicine in accordance with accepted medical practice in the State of Arkansas.
6. Present documented evidence that he or she has served one year as an intern or resident in an accredited medical school affiliated hospital in the United States.
7. Provide indisputable identification.
8. Present a Standard ECFMG Certificate.

History: Amended June 17, 1982, June 16, 1983, April 13, 1984, September 7, 1995.

REGULATION NO. 4

REGULATIONS GOVERNING PHYSICIAN'S ASSISTANTS

REPEALED: OCTOBER 7, 1999; REPLACED BY REGULATION 24; ADOPTED FEBRUARY 4, 2000

REGULATION NO. 5

REGULATIONS FOR PHYSICAL THERAPIST ASSISTANTS AND PHYSICAL THERAPIST ASSISTANTS TRAINEE

REPEALED: BOARDS SEPARATED, JULY 1, 1991

REGULATION NO. 6

REGULATIONS GOVERNING THE LICENSING AND PRACTICE OF

OCCUPATIONAL THERAPISTS

1. APPLICATION FOR LICENSURE. Any person who plans to practice as a licensed occupational therapist or occupational therapy assistant in the state of Arkansas shall, in addition to demonstrating his eligibility in accordance with the requirements of Section 7 of Act 381 of 1977, apply for licensure to the Board, on forms and in such a manner as the Board shall prescribe.
- 1.1 FORMS. Application forms can be secured from the Arkansas State Medical Board.
- 1.2 FILING REQUIREMENTS. Completed applications shall be mailed together with necessary documents and filing fee to the Board. The filing fee is not refundable. Applications and documentation must be completed within six months of date of receipt by the Arkansas State Medical Board. Applications and documentation over six months old are voided and the applicant must reapply.
- 1.3 BOARD ACTION ON APPLICANTS. Applications for licensure shall be acted upon by the Board no later than its next regularly scheduled meeting following the receipt of the required fee and all credentials.
2. EXAMINATION. All occupational therapists and occupational therapy assistants are required to pass an examination, approved by the Board, for licensure to practice the profession in Arkansas, except as otherwise provided in Arkansas Code 17-88-103. The Board has adopted for this purpose the examination administered by the National Board for Certification in Occupational Therapy for the certification of occupational therapists and occupational therapy assistants. For this purpose the Board shall follow the schedule, format and acceptable passing scores set by the National Board for Certification of Occupational Therapy and its designated agent. Applicants may obtain their examination scores in accordance with such rules as the National Board for Certification in Occupational Therapy may establish.
- 2.1 RE-EXAMINATION. An applicant who fails an examination may make reapplication to the National Board for Certification in Occupational Therapy for re-examination accompanied by the prescribed fee. Any applicant who fails or misses three (3) examinations must take additional educational work in the areas of his weakness as determined by the Committee before being eligible for re-examination.
3. LICENSING. All occupational therapists and occupational therapy assistants must be licensed to practice in the state of Arkansas prior to practicing the profession.
- 3.1 BY EXAMINATION. The Board shall register as an occupational therapist or occupational therapy assistant and shall issue a license to any person who satisfactorily passes the said examination provided for in these Rules and Regulations, and who otherwise meets the requirements for qualification contained herein and pays a fee as determined by the Board.
- 3.2 BY WAIVER OF EXAMINATION. The Board may waive the examination and grant a license to an occupational therapist (O.T.) or an occupational therapy assistant (OT-A) if the person has:
 - (A) Prior to the effective date of the Act was certified as a registered occupational therapist or an occupational therapy assistant by the American Occupational Therapy Association.
- 3.3 TEMPORARY LICENSES. The Secretary of the Board shall issue a temporary license, without examination, to practice occupational therapy, in association with an occupational therapist, licensed under the Act, to persons who have completed the education and experience requirements of the Act and rules and who are required to be licensed in order to obtain employment as an occupational therapist or an occupational therapy assistant. The temporary license shall only be renewed once if the applicant has not passed the examination or if the applicant has failed to take the qualifying examination, unless the failure is justified by good cause acceptable at the discretion of the Board, with recommendation of the Committee.
- 3.4 RENEWAL.
 - (A) A renewal or re-registration fee shall be paid annually to the Board by each occupational therapist and occupational therapy assistant who holds a license to practice occupational therapy in the State of Arkansas.
 - (B) Each licensee must complete, answer truthfully, and provide such information on a Renewal Application prior to being relicensed.
 - (C) Each occupational therapist and occupational therapy assistant shall be required to complete ten (10) contact hours of continuing education each year, as a prerequisite for license renewal in the State of Arkansas. Credit for continuing education requirements may be earned in the following manner:
 - (1) Workshops, refresher courses, professional conferences, seminars, or facility-based continuing education programs, especially those designated as provided for occupational therapists. Hour for hour credit on program content only.
 - (2) Professional presentations, workshops, institutes presented by the therapist (same presentation counted only once) and are considered on a hour for hour credit on program content only; five (5) hour maximum per year.
 - (3) Formal academic coursework related to the field of occupational therapy. One (1) to two (2) semester hour class equivalent to five (5) contact hours. Three (3) to four (4) semester hour class equivalent to ten (10) contact hours.
 - (4) Publications/Media; Research/Grant activities. A request to receive credit for these activities must be submitted in writing, for approval, to the Arkansas State Occupational Therapy Examining Committee thirty (30) days prior to the expiration of the license.
 - (5) Self-study.
 - (a) Book, journal or video reviews. Must be verified by submission of a one (1) page typewritten review of the material studied, including application to clinical practice, one (1) hour credit per review; two (2) hour maximum per year.
 - (b) Self-study coursework verified by submission of proof of course completion. The number of contact hours credited will be determined by the Arkansas Occupational

- Therapy Examining Committee. Course outline and proof of completion must be submitted to the Committee thirty (30) days prior to the expiration of the license.
- (6) Any deviation from the above continuing education categories will be reviewed on a case by case basis by the Committee. A request for special consideration or exemption must be submitted in writing sixty (60) days prior to the expiration of the license.
 - (7) All continuing education programs shall directly pertain to the profession of occupational therapy. The Committee will not pre-approve continuing education programs. All licensees shall submit documentation of completion of continuing education experiences, upon renewal of the license. Acceptable documentation is as follows:
 - (a) Official transcripts documenting completion of academic coursework directly related to the field of occupational therapy.
 - (b) A signed verification by a program leader or instructor of the practitioner's attendance in a program, by letter on letterhead of the sponsoring agency, certificate, or official continuing education transcript, accompanied by a brochure, agenda, program or other applicable information indicating the program content.
 - (c) A letter from a practitioner's supervisor on the agency's letterhead, giving the names of the continuing education programs attended, location, dates, subjects taught, and hours of instruction.
 - (8) Therapists receiving a new license will not be required to submit for continuing education credit during the first partial year of licensure. Failure to submit verification of continuing education for renewal will result in issuance of a "failure to comply" notification. If requirements are not met within ten days of receipt of the notification, disciplinary action may be taken. If the continuing education submitted for credit is deemed by the Committee to be unrelated to the profession of occupational therapy, the applicant will be given three months to earn and submit replacement hours. These hours will be considered as replacement hours and cannot be counted during the next licensure period. If the applicant feels the continuing education credit has been denied inappropriately, the applicant may appeal the issue to the Board for determination within thirty days of the date of receiving notice from the Committee. The Board will be responsible for maintaining all of the records involved in the continuing education requirements set forth in this regulation. The re-registration fee and proof of continuing education completed, as set forth above, shall be presented to the Board and the Committee before or during the birth month of the license holder each year. Failure to re-register and comply with the continuing education requirements by the last day of the birth month of the license holder of that year shall cause the license of the occupational therapist or occupational therapy assistant in question to automatically expire. This requirement becomes effective 1993 with the first submission of continuing education credits being required in January of 1994.
- 3.5 REINSTATEMENT. Any delinquent license of less than five (5) years may be reinstated, at the discretion of the Board by,
- (A) Paying all delinquent fees and a penalty of Twenty Five and No/100 (\$25.00) Dollars for each year or part of a year he has been delinquent, and
 - (B) by providing proof of completion of the continuing education requirement for each year, and
 - (C) completing the Renewal Application provided by the Board.
- Any person who shall fail to re-register and pay the annual license fee for five (5) consecutive years shall be required to make reapplication to the Board before his license may be reinstated.
4. REFUSAL, REVOCATION, AND/OR SUSPENSION OF LICENSE. The Board after due notice and hearing may deny or refuse to renew a license, or may suspend or revoke a license, or impose such penalties as provided by the Practice Act, where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.
- Such unprofessional conduct shall include:
- (A) Obtaining a license by means of fraud, misrepresentation or concealment of material facts; or providing false material to the Board at application or renewal.
 - (B) Being guilty of unprofessional conduct or gross negligence as defined by rules established by the Committee, or violating the Code of Ethics adopted and published by the Committee;
 - (C) Treating, or undertaking to treat, ailments of human beings otherwise than by occupational therapy, as authorized by the Act;
 - (D) Being convicted of a crime other than minor offenses defined as "minor misdemeanors", "violations", or "offenses", in any court, except those minor offenses found by the Board to have direct bearing on whether one should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant;
 - (E) Use of any drug or alcohol to an extent that impairs his ability to perform the work of an occupational therapist with safety to the public;
 - (F) Being adjudged to have a mental condition that renders him unable to practice occupational therapy with reasonable skill and safety to patients.
5. FEES. The fees are as follows:

	OT	OTA
A. Application Fee	\$25.00	\$25.00
B. Full License Fee	\$50.00	\$25.00

C. Temporary Permit Fee	\$25.00	\$25.00
D. Reinstatement Fee	\$50.00	\$50.00
All delinquent fees plus \$25.00 late fee per year for each year delinquent up to five (5) years.		
E. Annual Renewal Fee	\$50.00	\$50.00
F. Renewal Late Fee	\$25.00	\$25.00

6. DEFINITIONS

6.1 ACT DEFINED. The term Act as used in these rules shall mean the Arkansas State Occupational Therapy Licensing Act 381 of 1977.

6.2 FREQUENT AND REGULAR SUPERVISION DEFINED: As specified in the Occupational Therapy Practice Act 17-88-102 (3) An "occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the frequent and regular supervision by or in consultation with an occupational therapist whose license is in good standing. "Frequent" and "regular" are defined by the Arkansas State Occupational Therapy Examining Committee as consisting of the following elements:

- (A) The supervising occupational therapist shall have a legal and ethical responsibility to provide supervision, and the supervisee shall have a legal and ethical responsibility to obtain supervision regarding the patients seen by the occupational therapy assistant.
- (B) Supervision by the occupational therapist of the supervisee's occupational therapy services shall always be required, even when the supervisee is experienced and highly skilled in a particular area.
- (C) Frequent/Regular Supervision of an occupational therapy assistant by the occupational therapist is as follows:
 - 1) The supervising occupational therapist shall meet with the occupational therapy assistant for on-site, face to face supervision a minimum of one (1) hour per forty (40) occupational therapy work hours performed by the occupational therapy assistant, to review each patient's progress and objectives.
 - 2) The supervising occupational therapist shall meet with each patient being treated by the occupational therapy assistant on a monthly basis, to review patient progress and objectives.
- (D) The occupational therapists shall assign, and the occupational therapy assistant shall accept, only those duties and responsibilities for which the occupational therapy assistant has been specifically trained and is qualified to perform, pursuant to the judgment of the occupational therapist.
 - (1) Assessment/reassessment. Patient evaluation is the responsibility of the occupational therapists. The occupational therapy assistant may contribute to the evaluation process by gathering data, and reporting observations. The occupational therapy assistant may not evaluate independently or initiate treatment prior to the occupational therapist's evaluation.
 - (2) Treatment planning/Intervention. The occupational therapy assistant may contribute to treatment planning as directed by the

occupational therapist. The occupational therapist shall advise the patient/client as to which level of practitioner will carry out the treatment plan.

- (3) Discontinuation of intervention. The occupational therapy assistant may contribute to the discharge process as directed by the occupational therapist. The occupational therapist shall be responsible for the final evaluation session and discharge documentation.
 - (E) Before an occupational therapy assistant can assist in the practice of occupational therapy, he must file with the Board a signed, current statement of supervision of the licensed occupational therapist(s) who will supervise the occupational therapy assistant. Change in supervision shall require a new status report to be filed with the Board.
 - (F) In extenuating circumstances, when the occupational therapy assistant is without supervision, the occupational therapy assistant may carry out established programs for up to thirty calendar days while appropriate occupational therapy supervision is sought. It shall be the responsibility of the occupational therapy assistant to notify the Board of these circumstances.
 - (G) Failure to comply with the above will be considered unprofessional conduct and may result in punishment by the Board.
- 6.3 DIRECT SUPERVISION OF AIDES DEFINED.
- (A) The occupational therapy aide as defined in 17-88-102 (4) means a person who aids a licensed occupational therapist or occupational therapy assistant in the practice of occupational therapy, whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.
 - (B) The aide functions with supervision appropriate to the task as determined by the supervisor. This supervision is provided by the occupational therapists or the occupational therapy assistant. The aide is not trained to make professional judgments or to perform tasks that require the clinical reasoning of an occupational therapy practitioner. The role of the aide is strictly to support the occupational therapist or the occupational therapy assistant with specific non-client related tasks, such as clerical and maintenance activities, preparation of a work area or equipment, or with routine client-related aspects of the intervention session.
 - (C) Any duties assigned to an occupational therapy aide must be determined and appropriately supervised on-site, in-sight daily by a licensed occupational therapist or occupational therapy assistant and must not exceed the level of training, knowledge, skill and competence of the individual being supervised. Direct client related duties shall require continuous visual supervision by the occupational therapist or the occupational therapy assistant. The Board holds the supervising occupational therapist professionally responsible for the acts or actions performed by any occupational therapy aide supervised by the therapist in the occupational therapy setting.

- (D) Duties or functions which occupational therapy aides shall not perform include the following:
 - (1) Interpreting referrals or prescriptions for occupational therapy services;
 - (2) Performing evaluative procedures;
 - (3) Developing, planning, adjusting, or modifying treatment procedures;
 - (4) Preparing written documentation of patient treatment or progress for the patient's record;
 - (5) Acting independently or without on-site, in-sight supervision of a licensed occupational therapist during patient therapy sessions.
- (E) Services provided by an Occupational Therapy Aide cannot be billed as Occupational Therapy.
- (F) Failure of licensee to supervise an Aide as described herein will be considered as unprofessional conduct and may result in punishment by the Board.

7. PRINCIPLES OF OCCUPATIONAL THERAPY ETHICS OF THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION.

The Occupational Therapy Examining Committee has adopted the statement on ethics of the American Occupational Therapy Association as the standard of ethical practice for Occupational Therapists and Occupational Therapy Assistants licensed in the state of Arkansas. A violation of these principles and code of ethics will be considered as unprofessional conduct and may result in disciplinary action by the Board, as defined in the practice act and the administrative procedure act.

The American Occupational Therapy Association's Code of Ethics is a public statement of the values and principles used in promoting and maintaining high standards of behavior in occupational therapy. The American Occupational Therapy Association and its members are committed to furthering people's ability to function within their total environment. To this end, occupational therapy personnel provide services for individuals in any stage of health and illness, to institutions, to other professionals and colleagues, to students, and to the general public.

The Occupational Therapy Code of Ethics, is a set of principles that applies to occupational therapy personnel at all levels. The roles of the practitioner (occupational therapist and occupational therapy assistant), educator, fieldwork educator, supervisor, administrator, consultant, fieldwork coordinator, faculty program director, researcher/scholar, entrepreneur, student, support staff, and occupational therapy aide are assumed.

Principle 1. Occupational therapy personnel shall demonstrate a concern for the well-being of the recipients of their services (beneficence).

- (A) Occupational therapy personnel shall provide services in an equitable manner for all individuals.
- (B) Occupational therapy personnel shall maintain relationships that do not exploit the recipient of services sexually, physically, emotionally, financially, socially or in any other manner.

Occupational therapy personnel shall avoid those relationships or activities that interfere with professional judgment and objectivity.

- (C) Occupational therapy personnel shall take all reasonable precautions to avoid harm to the recipient of services or to his or her property.
- (D) Occupational therapy personnel shall strive to ensure that fees are fair, reasonable, and commensurate with the service performed and are set with due regard for the service recipient's ability to pay.

Principle 2. Occupational therapy personnel shall respect the rights of the recipients of their service (e.g. autonomy, privacy, confidentiality).

- (A) Occupational therapy personnel shall collaborate with service recipients or their surrogate(s) in determining goals and priorities throughout the intervention process.
- (B) Occupational therapy personnel shall fully inform the service recipients of the nature, risks, and potential outcomes of any interventions.
- (C) Occupational therapy personnel shall obtain informed consent from subjects involved in research activities indicating they have been fully advised of the potential risks and outcomes.
- (D) Occupational therapy personnel shall respect the individual's right to refuse professional services or involvement in research or educational activities.
- (E) Occupational therapy personnel shall protect the confidential nature of information gained from educational, practice, research and investigation activities.

Principle 3. Occupational therapy personnel shall achieve and continually maintain high standards of competence (duties).

- (A) Occupational therapy practitioners shall hold the appropriate national and state credentials for providing services.
- (B) Occupational therapy personnel shall use procedures that conform to the Standards of Practice of the American Occupational Therapy Association.
- (C) Occupational therapy personnel shall take responsibility for maintaining competence by participating in professional development and educational activities.
- (D) Occupational therapy personnel shall perform their duties on the basis of accurate and current information.
- (E) Occupational therapy practitioners shall protect service recipients by ensuring that duties assumed by or assigned to other occupational therapy personnel are commensurate with their qualifications and experience.
- (F) Occupational therapy practitioners shall provide appropriate supervision to individuals for whom the practitioners have supervisory responsibility.
- (G) Occupational therapists shall refer recipients to other service providers or consult with other service providers when additional knowledge and expertise are required.

Principle 4. Occupational therapy personnel shall comply with laws and Association policies guiding the profession of occupational therapy (justice).

- (A) Occupational therapy personnel shall understand and abide by applicable Association policies; local, state, and federal laws; and institutional rules.
- (B) Occupational therapy personnel shall inform employers, employees, and colleagues about those laws and Association policies that apply to the profession of occupational therapy.
- (C) Occupational therapy practitioners shall require those they supervise in occupational therapy related activities to adhere to the Code of Ethics.
- (D) Occupational therapy personnel shall accurately record and report all information related to professional activities.

History: Adopted June 15, 1978; Amended December 11, 1992; March 12, 1993; December 4, 1997; February 1, 2001; April 6, 2001

REGULATION NO. 7

REGULATIONS GOVERNING THE PRESCRIBING OF AMPHETAMINES AND AMPHETAMINE TYPE DRUGS

All prescriptions for:

- (1) Schedule II Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Schedule II Methamphetamine, its salts, isomers, and salts of its isomers; must comply with both state and federal laws. In addition, prescriptions for these controlled drugs may be written by a physician only for the treatment of Narcolepsy or Hyperkinesia or Attention Deficit Disorder with or without hyperactivity. No second or subsequent prescription for these controlled drugs may be written for the patient until a second opinion is obtained from a physician confirming (1) the diagnosis of Narcolepsy or Hyperkinesia or Attention Deficit Disorder with or without hyperactivity and (2) that the controlled drug is the drug of choice.

Upon application to the Board and upon demonstration of need, any physician who demonstrates a knowledge in the treatment of Narcolepsy or Hyperkinesia or Attention Deficit Disorder with or without hyperactivity may obtain exemption from the second opinion requirement of this regulation, including the confirmation of the diagnosis of Narcolepsy or Hyperkinesia or Attention Deficit Disorder with or without hyperactivity and that the controlled drug is the drug of choice. The Board shall maintain a register of all licensed physicians thus exempted.

Violations of this regulation will be interpreted by the Board as the physician exhibiting gross negligence or ignorant malpractice and shall subject the physician to all penalties provided by Arkansas Code Ann. § 17-95-410.

History: Adopted April 23, 1979; Amended April 18, 1986; Amended June 14, 2001.

REGULATION NO. 8

REPEALED June 9, 1995

REGULATION NO. 9

REPEALED December 1, 1994

REGULATION NO. 10

REGULATIONS GOVERNING THE LICENSING AND PRACTICE OF RESPIRATORY CARE PRACTITIONERS

- 1. APPLICATION FOR LICENSURE. Any person who plans to practice as a licensed respiratory care practitioner (LRCP) in the state of Arkansas shall, in addition to demonstrating eligibility in accordance with the requirement of Arkansas Code Ann. 17-84-302 or 17-84-303, apply for licensure to the Board on forms and in such manner as the Board shall prescribe.
 - 1.1 FORMS. Application forms may be secured from the Arkansas State Medical Board.
- 2. EXAMINATION. All respiratory care practitioners shall be required to pass an examination for a license to practice the profession in Arkansas, except as otherwise stated in Arkansas Code Ann. 17-84-301. It is not the intent of the Board to examine for licensure as a respiratory care practitioner those individuals engaged solely in the practice of pulmonary function testing.
- 3. LICENSING. All respiratory care practitioners in the state of Arkansas must be licensed to practice, except as otherwise stated in Arkansas Code Ann. 17-84-301.
 - 3.1 BY EXAMINATION. The Board shall register as a respiratory care practitioner and shall issue a license to any person who satisfactorily passes the examination provided for in the Act and who otherwise meets the requirements for qualification contained herein and pays a fee as determined by the Board.
 - 3.2. BY WAIVER OF EXAMINATION. The Board shall waive the examination and grant a license as a licensed respiratory care practitioner (LRCP) to any person who meets the qualifications outlined in Arkansas Code Ann. 17-84-302.
 - 3.3 TEMPORARY LICENSE. The secretary of the Board may issue a temporary permit without examination to practice respiratory care to persons who are not licensed in other states but otherwise meet the qualifications for licensure set out in the Act. The temporary permit may be renewable at six (6) month intervals not to exceed a maximum of two (2) permits per applicant. *A temporary permit will be issued to respiratory care students based on the following criteria:
 - a. Students must be enrolled in an AMA approved Respiratory Care program as specified in Section 7.4, entering their last semester of technical training.
 - b. Students must submit a notarized copy of their current school transcript and a letter of recommendation that

- states the expected graduation date from their program director.
- c. Students will practice limited respiratory care under the supervision of a licensed respiratory care practitioner, as specified in Section 7.2 & 7.3.
- 3.4 RECIPROCITY. A licensed respiratory care practitioner who has been issued a license in another state or territory whose qualifications for licensure meet or exceed those prescribed in the Act shall be issued a license to practice respiratory care in the state of Arkansas upon payment of the prescribed fees if the state or territory from which the applicant comes accords a similar privilege of licensure to persons licensed in this state by the Board.
- 3.5 RENEWAL. A license or re-registration fee of \$25.00 shall be paid to the Board by each respiratory care practitioner who holds a license to practice respiratory care in the state of Arkansas. Registration fee shall be paid by the last day of the birth month. The license of any person failing to re-register and pay said fee by the last day of the birth month shall expire automatically.
- 3.6 REINSTATEMENT. Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty of \$10.00 for each year or part of a year he has been delinquent. Any person who shall fail to re-register and pay the annual fee for five (5) consecutive years shall be required to be re-examined by the Board, as per Rule 2, before his license may be reinstated.
- 3.7 REFUSAL, REVOCATION, AND/OR SUSPENSION OF LICENSE. The Board after due notice and hearing may deny or refuse to renew a license, or may suspend or revoke a license, of any licensee or applicant for licensure:
- Who is habitually drunk or who is addicted to the use of narcotic drugs;
 - Who has been convicted of a violation of state or federal narcotic laws.
 - Who is, in the judgement of the Board, guilty of immoral or unprofessional conduct.
 - Who has been convicted of any crime involving moral turpitude;
 - Who is guilty, in the judgement of the Board, of gross negligence in his practice as a respiratory care practitioner.
 - Who has obtained or attempted to obtain registration by fraud or material misrepresentation;
 - Who has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane;
 - Who has treated or undertaken to treat ailments to human beings other than by respiratory care and as authorized by this Act, or who has undertaken to practice independent of the prescription and direction of a licensed physician.
4. FEES. The fees are as follows:
 Initial application for licensure by examination or by reciprocity: \$75.00
 An applicant whose application is rejected shall be refunded all but \$25.00 of the paid application fee.
 Application for temporary permit: \$35.00
 Annual renewal: \$25.00
 Reinstatement: All delinquent fees plus a penalty of \$10.00 per year for all years delinquent.
5. CONTINUING EDUCATION. All respiratory care practitioners licensed by the Board in the state of Arkansas must complete twelve (12) continuing education hourly units as a condition for renewal of a license. Each licensee will sign his renewal application verifying that he has completed said twelve hours and will maintain, for a period of three years, proof of the courses taken, should it be requested by the Board for audit purposes.
- 5.1 TYPES OF ACCEPTABLE CONTINUING EDUCATION.
 The following categories of experience will be accepted for meeting the continuing education requirements:
- Courses completed in the techniques and application of respiratory therapy care provided through an approved respiratory care educational program.
 - Participation in programs which provide for the awarding of continuing respiratory care education, continuing education units or equivalent credits which may be granted through national or state organizations such as the American Association of Respiratory Care, Arkansas Society for Respiratory Care, American Thoracic Society or the American College of Chest Physicians, or their successor organizations.
 - Instruction in programs as described in the preceding sections (a,b) provided such instruction is not related to one's employment responsibilities.
 - Passage of the National Board for Respiratory Care credentialing or re-credentialing examinations for the entry level practitioner or the written or clinical simulation for advanced practitioners.
 - Any activity completed within the 12 months prior to the issuance of the initial license.
- 5.3 DOCUMENTATION. All licensed practitioners shall submit documentation of completion of continuing education experiences on such forms as the Board shall supply, upon renewal of the license. Acceptable documentation is as follows:
- Official transcripts documenting completion of respiratory care course work.
 - A signed notarized certification by a program leader or instructor of the practitioner's attendance in a program by letter on letterhead of the sponsoring agency, certificate, or official continuing education transcript accompanied by a brochure, agenda, program, or other applicable information indicating the program content.
 - A letter from a sponsoring institution on the agency's letterhead giving the name of the program, location, dates, subjects taught, and hours of instruction.
 - A notarized copy of the official transcript indicating successful passage of the National Board of Respiratory Care credentialing or re-credentialing examinations for the entry level practitioner or the written or clinical simulation for advanced practitioners.
- 5.4 CONTINUING EDUCATION CREDIT. Continuing education credits will be awarded based on the following criteria:
- For completed applicable respiratory care course work, five (5) continuing education units will be awarded for each semester credit or hour successfully completed.
 - For programs attended, continuing education units will be awarded as stated in the program literature or one

(1) continuing education unit will be awarded for each hour of instruction.

- c. For instruction, three (3) continuing education units will be awarded for each clock hour of respiratory care instruction, signed by program director.
 - d. For passage of the National Board for Respiratory Care credentialing or re-credentialing examinations for the entry level practitioner or the written or clinical simulation or advanced practitioner, six (6) continuing education units will be awarded.
 - e. Any activity approved by the Arkansas Respiratory Care Examining Committee.
- 5.5 FAILURE TO COMPLETE THE CONTINUING EDUCATION REQUIREMENT. A practitioner who has failed to complete the requirements for continuing education as specified in Section 5:
- a. May be granted up to a three (3) month extension at which time all requirements must be met.
 - b. A practitioner may not receive another extension at the end of the new reporting period.
- 5.6 EXCESSIVE CONTINUING EDUCATION CREDITS. Credits reported on the Board which exceed the required number as specified in Section 4.1 shall not be credited to the new reporting period.
- 5.7 HARDSHIP. The Board has considered hardship situation in formulating these sections.
- 5.8 The provisions of this Section (5-5.8) shall become effective January 1, 1989.
6. DEFINITIONS.
- 6.1 ACT DEFINED. The term Act as used in these rules shall mean Act 1094, the Arkansas Respiratory Care Act of 1995.
- 6.2 NATIONAL CREDENTIALS DEFINED. The National Board of Respiratory Care issues the credentials of C.R.T.T. (Certified Respiratory Therapy Technician) and R.R.T (Registered Respiratory Therapist). Persons holding these credentials meet the qualifications for licensure in the state of Arkansas until otherwise determined by the Board.
- 6.3 STATE CREDENTIALS DEFINED. Persons who have met the qualifications and obtained a license in the state of Arkansas shall be designated by the credentials of L.R.C.P. (Licensed Respiratory Care Practitioner).
7. OTHER DEFINITIONS.
- 7.1 STUDENT. A Person currently enrolled in an accredited, approved training program who is actively engaged in the clinical practice of respiratory care at the level of their clinical education.
- 7.2 LIMITED. The clinical practice of respiratory care shall be restricted to the level of current and progressive clinical training as provided by an accredited, approved training program in respiratory care. The definition applies to respiratory care students.
- 7.3 SUPERVISION. Supervision by a licensed respiratory care practitioner who is responsible for the functioning of the practitioner.
- 7.4 APPROVED TRAINING PROGRAM. Respiratory care programs approved by the Arkansas State Board of Higher Education or like organizations in other states.
8. Members of the Arkansas Respiratory Care Examining Committee will be paid the sum of \$35.00 per day per diem when they are meeting as a Committee.

History: Adopted May 25, 1988; Amended September 8, 1995,

December 4, 1997; Revised March 5, 1999;

*Revised February 4, 2000; Amended December 6, 2001

REGULATION NO. 11

REPEALED: SCHEDULED MEETING DATES

REGULATION NO. 12

1. Pursuant to other provisions of Act 515 of 1983 any physician licensed to practice medicine in the state of Arkansas who is a "dispensing physician" as defined by Act 515 of 1983 shall comply with all provisions of the Act and shall register with the Arkansas State Medical Board on a form provided by it for that purpose.
2. Any physician desiring to dispense legend drugs, who is not exempt by the terms of Act 515 of 1983 from the requirement of prior approval of the Arkansas State Medical Board shall apply to the Board on a form provided for it for that purpose and shall be required to demonstrate the need for such dispensing of legend drugs prior to receiving approval.
3. All records maintained by a dispensing physician pursuant to the requirements of Act 515 of 1983 shall be subject to inspection by a designated inspector of the Arkansas State Medical Board and at its direction during all regular business hours.
4. Violation of the provision of Act 515 of 1983 or violations of these regulations shall constitute "unprofessional conduct" and shall subject the violator to disciplinary action as provided by Ark. Code Ann. 17-95-409.

History: Adopted June 16, 1983.

REGULATION NO. 13

WHEREAS, the Arkansas State Medical Board is vested with discretion (pursuant to Arkansas Code Annotated § 17-95-405) to issue a license to practice medicine to a physician who has been issued a license to practice medicine in another state, "whose requirements for licensure are equal to those established by the State of Arkansas" without requiring further examination; and in order to establish objective criteria of equivalency in licensure requirements, the Board hereby finds that all applicants for licensure who were graduated from an American or Canadian medical school prior to 1975 and who otherwise meet all other requirements for licensure in this State shall be determined to meet the requirements for licensure in this State upon presentation of satisfactory evidence that they have successfully completed the examination required by the licensing authority in the State in which they were originally licensed. All applicants for licensure who were graduated from an American or Canadian Medical School subsequent to 1975 shall be required to present evidence of satisfactory completion of one of the examinations listed in Regulation 14. Graduates of Canadian medical schools shall be deemed to have satisfied the equivalency requirements by providing proof of completion of the LMCC (Licentiate of the Medical Council of Canada) examination. Graduates of foreign medical schools must comply with the requirements of Regulation 3 and Regulation 14, regardless of the State in which they are licensed. All applicants must complete and

submit such information as the Board requests on its application form for licensure by credentials.

History: Adopted April 19, 1985; Amended October 6, 2000

REGULATION NO. 14

WHEREAS the Medical Practices Act; more specifically Arkansas Code Annotated Sec. 17-93-403(a)(2) and Arkansas Code Annotated Sec. 17-93-404, sets forth that anyone desiring a license to practice medicine in the State of Arkansas must successfully pass an examination as approved by the Board.

WHEREAS the Arkansas State Medical Board is charged with selecting said examinations. WHEREFORE the Arkansas State Medical Board designates the following examinations as appropriate examinations for licensure:

1. Those individuals desiring a license to practice medicine and having graduated from an American or Canadian medical school must show proof of satisfactory completion of one of the following exams:
 - (a) Federation Licensing Examination
 - (b) The National Board of Medical Exam
 - (c) The United States Medical Licensing Exam
 - (d) Le Medical Counsel of Canada Exam
 - (e) Examinations developed by the National Board of Osteopathic Medical Examiners
2. Those individuals desiring a license who have graduated from a foreign country's medical school in addition to the other requirements will show proof of successful completion of the ECFMG (Educational Commission for Foreign Medical Graduates Exam) and one of the following exams:
 - (a) Federation Licensing Examination
 - (b) The National Board of Medical Exam
 - (c) The United States Medical Licensing Exam
 - (d) Le Medical Counsel of Canada Exam
3. Those individuals desiring a license to practice medicine as an Osteopath in the State of Arkansas, in addition to the other requirements, will show proof of successful completion of one of the following exams:
 - (a) Federation Licensing Examination
 - (b) Examinations developed by the National Board of Osteopathic Medical Examiners
 - (c) The United States Medical Licensing Exam
 - (d) The National Board of Medical Exam
 - (e) Le Medical Counsel of Canada Exam
4. Those individuals desiring a license by credential must show proof of successful completion of an examination accepted and stated above of one of the following:
 - (a) All of those listed under the first category
 - (b) Any State exam if it was taken prior to 1975
5. It is recognized by the Arkansas State Medical Board that the Federation Licensing Exam (FLEX) and the National Board of Medical Examiners (NBME) are being phased out as an accepted examinations for licensure. It is also recognized by the Arkansas State Medical Board that the United States Medical Licensing Exam (USMLE) is being phased in as the primary form of examination for state licensure. During this period of transition, the following will be accepted by the Arkansas State Medical Board as completion of an approved examination:

NBME Part I or USMLE Step 1
plus
NBME Part II or USMLE Step 2
plus
NBME Part III or USMLE Step 3

FLEX Component 1
plus
USMLE Step 3

or

NBME Part I or USMLE Step 1
plus
NBME Part II or USMLE Step 2
plus
FLEX Component 2

The above combinations of examinations in no way is to imply that one cannot take the entire examination, that being those exams listed in Regulation 14-1, and passing the same.

History: Adopted March 12, 1992; Amended May 7, 1993, Amended June 5, 1998.

REGULATION NO. 15

NURSE PRACTITIONER REGISTRATION AND SUPERVISION

REPEALED: October 25, 1993

REGULATION NO. 16

PHYSICIANS, HIV, HBV AND HCV

Arkansas Code S17-95-409 (G) and (J) provides that the Arkansas State Medical Board may revoke or suspend a license if the practitioner is grossly negligent and becomes physically incompetent to practice medicine to such an extent as to endanger the public.

Public Law 102-141 passed in the First Session of the 102nd Congress of the United States of America approved on 28 October, 1991 provides that the states will establish guidelines to apply to health professionals and will determine appropriate disciplinary and other actions to ensure compliance with those guidelines in order to prevent the transmission of human immunodeficiency syndrome and hepatitis B virus during exposure-prone invasive procedures except for emergency situation where the patient's life or limb is in danger.

DEFINITIONS:

As used in this Rule the term:

1. HIV means the human immunodeficiency virus, whether HIV-1 or HIV-2.
2. HIV seropositive means with respect to a practitioner, that a test under the criteria of the Federal Centers for Disease Control or approved by the Arkansas State Medical Board has confirmed the presence of HIV antibodies.

3. HBV means the hepatitis B virus.
4. HCV means the hepatitis C virus.
5. HbeAg seropositive means with respect to a practitioner, that a test of the practitioner's blood under the criteria of the Federal Centers for Disease Control or approved by the Arkansas State Medical Board has confirmed the presence of the hepatitis Be antigens.
6. Body fluids means amniotic, pericardial, peritoneal, pleural, synovial and cerebrospinal fluids, semen, vaginal secretions and other body fluids, secretions and excretions containing visible blood.
7. Exposure-prone Procedure means an invasive procedure in which there is a risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient.
8. Invasive procedure means any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane or percutaneous wound of the human body.
9. Practitioner means physician or physician's trained assistant, who performs or participates in an invasive procedure or functions ancillary to invasive procedures.

GENERAL REQUIREMENTS:

10. A practitioner who performs or participates in an invasive procedure or performs a function ancillary to an invasive procedure shall, in the performance of or participation in any such procedure or function be familiar with, observe and rigorously adhere to both general infection control practices in universal blood and body fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of HBV, HVC or HIV from a practitioner to a patient, from a patient to a practitioner, or from a patient to a patient.
11. Universal blood and body fluid precautions for purposes of this section, adherence to the universal blood and body fluid precautions requires observance of the following minimum standards: Protective Barriers:
 A practitioner shall routinely use appropriate barrier precautions to prevent skin and mucous membrane contact with blood and other bodily fluids of the patient, to include:
 - (1) Gloves shall be used by the physician and direct care staff during treatment, which involved contact with items potentially contaminated with the patient's bodily fluids. Fresh gloves shall be used for all such patient contact. Gloves shall not be washed or reused for any purpose. The same pair of gloves shall not be used, removed, and reused for the same patient at the same visit or for any other purpose.
 - (2) Masks shall be worn by the physician and direct care staff when splatter or aerosol is likely. Masks shall be worn during surgical procedures except in those specific instances

in which the physician determines that the use of a mask would prevent the delivery of health care services or would increase the hazard and risk to his or her patient

- (3) Protective eyewear shall be worn by the physician and offered to all patients during times when splatter or aerosol is expected.
- (4) Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other bodily fluids. Hands shall be washed immediately after gloves are removed.

PERCUTANEOUS PRECAUTIONS:

12. A practitioner shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures. If a needle stick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needle stick injuries, needles should not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed for disposal in puncture-resistant containers located as close as practical to the use area. Large-bore reusable needles should be placed in puncture-resistant containers for transport to the reprocessing area.
13. Resuscitation Devices. To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.
14. Sterilization and Disinfection. Instruments or devices that enter sterile tissue or the vascular system of any patient or through which blood flows should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized or receive high-level disinfection. Sterile disposable needles shall be used. The same needle may be recapped with a single-handed recapping technique or recapping device and subsequently reused for the same patient during the same visit.
15. A practitioner who is HbeAg seropositive or HIV seropositive, or who otherwise knows or should know that he or she carries and is capable of transmitting HBV, HCV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure except as provided in this Rule or Regulation:
16. A practitioner may participate in exposure-prone procedure with a patient when each of the following four conditions have been met:
 - (a) The practitioner has affirmatively advised the patient, or the patient's lawfully authorized representative, that the practitioner has been diagnosed as HbeAg seropositive and/or HIV seropositive and/or HVC positive, as the case may be.
 - (b) The patient, or the patient's lawfully authorized representative, has been advised of the risk of the practitioner's transmission of HBV and/or HIV to the patient during an exposure-prone procedure. The practitioner shall personally communicate such information to the patient or the patient's representative. The physician shall also communicate such information to the patient's physician.

- (c) The patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:
 - (1) Identification of the exposure-prone procedure to be performed by the practitioner with respect to the patient.
 - (2) An acknowledgment that the advice required by Subsections (15)(a) and (15)(b) hereabove have been given to and understood by the patient or the patient's representative; and
 - (3) The consent of the patient, or the patient's lawfully authorized representative, to the performance of or participation in the designated procedure by the practitioner.
- (d) The practitioner's HbeAg and/or HIV seropositivity and/or HCV positivity has been affirmatively disclosed to each practitioner or other health care personnel who participates or assists in the exposure-prone procedure.

REVOCAION OF CONSENT:

- 17. Consent given pursuant to this section may be revoked by a patient or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the practitioner expressing an intent to revoke, rescind or withdraw such consent.

REPORTS AND INFORMATION CONFIDENTIALITY:

- 18. Reports and information furnished to the Arkansas State Medical Board relative to the HbeAg, HCV or HIV status of a practitioner shall not be deemed to constitute a public record but shall be deemed and maintained by the Board as confidential and privileged as a medical record and shall not be subject to disclosure by means of subpoena in any judicial, administrative or investigative proceeding; provided that the practitioner adheres to the Rules and Regulations of the Board and is willing to subject himself to counseling, review and monitoring by the Board or its designated agent.
- 19. Upon the Board learning that a practitioner is HbeAg or HIV seropositive the Board, or the Board's agents, will make contact with said practitioner, review the Rules and Regulations of the Board and set up a process of monitoring that individual's practice.
- 20. The monitoring of practitioners and disciplining of practitioners as set forth in this Rule and Regulation will be reported to the Arkansas Department of Health but will remain confidential.
- 21. If the practitioner does not comply with this Rule and Regulation of the board that practitioner will be deemed to have been grossly negligent and committed ignorant malpractice and further that practitioner would be physically incompetent to practice medicine to such an extent as to endanger the public; thus subjecting the practitioner to a disciplinary hearing and possibly sanctioning of his license.

History: Adopted May 6, 1993; Amended October 4, 2001.

REGULATION NO. 17

CONTINUING MEDICAL EDUCATION

- A. Pursuant to Ark. Code Ann. 17-80-104, each person holding an active license to practice medicine in the State of Arkansas shall complete twenty (20) credit hours per year of continuing medical education. One hour of credit will be allowed for each clock hour of participation and approved continuing education activities, unless otherwise designated in Subsection B below.
- B. Approved continuing medical education activities include the following:
 - 1. Internship, residency or fellowship in a teaching institution approved by the Accreditation Counsel for Graduate Medical Education (ACGME) or programs approved by the American Osteopathic Association Council on Postdoctoral Training or the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. One credit hour may be claimed for each full day of training. No other credit may be claimed during the time a physician is in full-time training in an accredited program. Less than full-time study may be claimed on a pro-rata basis.
 - 2. Education for an advanced degree in a medical or medically related field in a teaching institution approved by the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. One credit hour may be claimed for each full day of study. Less than full-time study may be claimed on a pro-rata basis.
 - 3. Full-time research in a teaching institution approved by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association Bureau of Professional Education or the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. One credit hour may be claimed for each full day of research. Less than full-time study may be claimed on a pro-rata basis.
 - 4. Activities designated as Category 1 or 2 by an organization accredited by the Accreditation Council on Continuing Medical Education or a state medical society or be explicitly approved for Category 1 or 2 by American Medical Association, or the Arkansas State Medical Board, or by the Council on Continuing Medical Education of the American Osteopathic Association. Activities designated as prescribed hours by the American Academy of Family Practice.
 - 5. Medical education programs may also be claimed for credit if said medical education programs have not been designated for specific categories referred to in Number 4 above, and are designed to provide necessary understanding of current developments, skills, procedures or treatment related to the practice of medicine.
 - 6. Serving as an instructor of medical students, house staff, other physicians or allied health professionals from a hospital or institution with a formal training program, where the instruction activities are such as will provide the licentiate with necessary understanding of current developments, skills, procedures or treatment related to the practice of medicine.

9. Publication or presentation of a medical paper, report, book, that is authored and published, and deals with current developments, skills, procedures or treatment related to the practice of medicine. Credits may be claimed only once for materials, presented. Credits may be claimed as of the date of the publication or presentation. One credit hour may be reported per hour of preparation, writing and/or presentation.
 10. Credit hours may be earned for any of the following activities which provide necessary understanding of current developments, skills, procedures or treatment related to the practice of medicine: (a) completion of a medical education program based on self-instruction which utilized videotapes, audiotapes, films, filmstrips, slides, radio broadcasts and computers; (b) independent reading of scientific journals and books; (c) preparation for specialty Board certification or recertification examinations; (d) participation on a staff committee or quality of care and/or utilization review in a hospital or institution or government agency.
- C. If a person holding an active license to practice medicine in this State fails to meet the foregoing requirements because of illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstances, the Board upon appropriate written application may grant an extension of time to complete same on an individual basis.
 - D. Each year, with the application for renewal of a active license to practice medicine in this State, the Board will include a form which requires the person holding the license to certify by signature, under penalty of perjury, that he or she has met the stipulated continuing medical education requirements. In addition, the Board may randomly require physicians submitting such a certification to demonstrate, prior to renewal of license, satisfaction of the continuing medical education requirements stated in his or her certification. A copy of an American Medical Association Physician's Recognition Award (AMA PRA) certificate awarded to the physician and covering the reporting period shall be bona fide evidence of meeting the requirements of the Arkansas State Medical Board. A copy of the American Osteopathic Association or the State Osteopathic Association certificate of continuing medical education completion or the American Osteopathic Association's individual activity report shall be bona fide evidence of meeting the requirements of the Arkansas State Medical Board.
 - E. Continuing medical education records must be kept by the licensee in an orderly manner. All records relative to continuing medical education must be maintained by the licensee for at least three (3) years from the end of the reporting period. The records or copies of the forms must be provided or made available to the Arkansas State Medical Board upon request.
 - F. Failure to complete continuing medical education hours as required or failure to be able to produce records reflecting that one has completed the required minimum continuing medical education hours shall be a violation of the Medical Practices Act and may result in the licensee having his license suspended and/or revoked.
 - G. A person may apply to the Board for a waiver from the continuing medical education requirements stated herein if he has a license to practice medicine in the State of Arkansas, is willing to enter a sworn statement to the Board that he is retiring from the active practice of medicine and will not

practice medicine in the future, he may present his application to the Board for said exemption.

History: Adopted September 14, 1996.

REGULATION 18

FEE SCHEDULE FOR CENTRALIZED VERIFICATION SERVICE

Pursuant to Ark. Code Ann. § 17-95-107(d)(7) provides that the Board may charge credentialing organizations a reasonable fee for the use of credentialing services as established by rule and regulation.

Credentialing Organizations will be charged the following fees for requests for physician information:

- A. One time entity setup fee:
\$250.00
- B. Annual administrative renewal fee:
\$50.00
- C. Fees for individual information requests:
 - Initial Credentialing Information
\$60.00
 - Recredentialing Information
\$40.00
 - Recredentialing Information
\$60.00
(Out of birth month cycle) *Effective January 1, 2003*
 - “Expedited Service” Credentialing Information
\$250.00
(Information requested in five (5) business days or less)

Effective January 1, 2002

History: Adopted June 6, 1996; Amended December 6, 2001.

REGULATION NO. 19

PAIN MANAGEMENT PROGRAMS

- A. Physicians operating a pain management program for specific syndromes...that is headache, low back pain, pain associated with malignancies, or temporomandibular joint dysfunctions...are expected to meet the standards set forth in this section or in fact be in violation of the Medical Practice Act by exhibiting gross negligence or ignorant malpractice.
- B. Definitions:
 1. Chronic Pain Syndrome: Any set of verbal and/or nonverbal behaviors that: (1) involves the complaint of enduring pain, (2) differs significantly from a person's premorbid status, (3) has not responded to previous

- appropriate medical and/or surgical treatment, and (4) interferes with a person's physical, psychological and social and/or vocational functioning.
2. Chronic Pain Management Program provides coordinated, goal-oriented, interdisciplinary team services to reduce pain, improving functioning, and decrease the dependence on the health care system of persons with chronic pain syndrome.
- C. The following standards apply to both inpatient and outpatient programs and the physician should conform to the same.
1. There should be medical supervision of physician prescribed services.
 2. A licensee should obtain a history and conduct a physical examination prior to or immediately following admission of a person to the Chronic Pain Management Program.
 3. At the time of admission to the program, the patient and the physician should enter into a written contract stating the following:
 - a. The presenting problems of the person served.
 - b. The goals and expected benefits of admission.
 - c. The initial estimated time frame for goal accomplishment.
 - d. Services needed.
- D. In order to provide a safe pain program, the scope and intensity of medical services should relate to the medical care needs of the person served. The treating physician of the patient should be available for medical services. Services for the patient in a Chronic Pain Management Program can be provided by a coordinated interdisciplinary team of professionals other than physicians. The members of the core team, though each may not serve every person should include:
- a. A Physician.
 - b. A clinical psychologist or psychiatrist.
 - c. An occupational therapist.
 - d. A physical therapist.
 - e. A rehabilitation nurse.
- E. A physician managing a Chronic Pain Management Program to a patient should meet the following criteria:
1. Three years experience in the interdisciplinary management of persons with chronic pain.
 2. Participation in active education on pain management at a local or national level.
 3. Board certification in a medical specialty or completion of training sufficient to qualify for examinations by members of the American Board of Medical Specialties.
 4. Two years experience in the medical direction of an interdisciplinary Chronic Pain Program or at least six (6) months of pain fellowship in an interdisciplinary Chronic Pain Program.
- The Physician must have completed and maintained at least one (1) of the following:
5. Attendance at one (1) meeting per year of a regional and national pain society.
 6. Presentation of an abstract to a regional national pain society.
 7. Publication on a pain topic in a peer review journal.
 8. Membership in a pain society at a regional or national level.

History: Adopted December 11, 1996.

REGULATION NO. 20

PRACTICE OF MEDICINE BY A NON-RESIDENT

Pursuant to Ark. Code Ann. 17-95-401 and 17-95-202, the Arkansas State Medical Board sets forth the following Rule and Regulation concerning the practice of medicine by a non-resident physicians or osteopaths:

Any non-resident physician or osteopath who, while located outside the State of Arkansas, provides diagnostic or treatment services to patients within the State of Arkansas on a regular basis or under a contract with the health care provider, a clinic located in this state, or a health care facility, is engaged in the practice of medicine or osteopathy in this state and, therefore must obtain a license to practice medicine in this State. Any nonresident physician or osteopath who, while located outside of the state, consults on an irregular basis with a physician or osteopath who holds a license to practice medicine within the State of Arkansas and who is located in this State, is not required to obtain a license to practice medicine in the State of Arkansas.

History: Adopted March 14, 1997.

REGULATION NO. 21

ANOREXIANT DRUG GUIDELINES

Short term treatment of obesity with Schedule III and IV drugs.

A physician will be considered as exhibiting gross negligence or ignorant malpractice if he prescribes Schedule III and IV scheduled drugs under the Uniform Controlled Substance Act for obesity, except in conformity with the requirements as set below:

1. Anorexiant drugs listed on Schedule III and IV under the Uniform Controlled Substances Act shall not be dispensed or prescribed for the treatment of obesity, except in conformity with the following minimal requirements. Schedule II drugs may not be used in the treatment of obesity (see Regulation 7 of the Arkansas State Medical Board.)
2. The physician should be knowledgeable in the pathophysiology and treatment of obesity. An established physician/patient relationship should exist. The patient should be age 18 or older, or have written consent from parent or guardian. The medication should only be an adjunct to a comprehensive weight loss program focused on appropriate nutrition education, a change in lifestyle, counseling, and an individualized exercise program. The physician should determine whether or not the patient has made a substantial good faith effort to lose weight through diet and alteration of lifestyle prior to beginning drug therapy. The treating physician shall take a complete history of the patient and shall give a complete physical examination. The physical examination shall include checking the blood pressure and pulse, examining the heart and lungs, recording weight and height, and administering any other appropriate diagnostic tests. The history and examination shall be sufficient to determine if the patient has previously been drug dependent, to determine if there is a metabolic cause of the obesity which would make anorexiant drugs inappropriate (e.g. hypothyroidism) and to determine if other contraindications to use of the drugs exist. The

treating physician shall enter each of those findings in the patient's records.

3. The physician should discuss with the patient different approaches to the treatment of obesity, and the risks and benefits associated with each approach. Risks should include potential side effects (e.g. cardiovascular and pulmonary complications, as outlined in the PDR), as well as the potential for lack of success with weight loss. The physician should be aware of potential drug interactions between anorexiant, and other centrally acting drugs. The treating physician shall prescribe a diet for weight loss and appropriate counseling regarding lifestyle change, and record these changes on the patient record. Consideration on the use of anorexiatic medications should take into account the degree of overweight, and concomitant medical conditions. The body mass index (BMI) should be used as a guide to determine the degree of overweight. The BMI is defined as the weight (kg) divided by the height (meters squared). A chart to determine BMI is enclosed. In general, anorexiatic medication should only be used if the BMI is more than 27. In the case of concomitant obesity-related medical conditions, anorexiatic medications may be considered with a BMI above 25. Obesity related medical conditions include diabetes, hypertension, dyslipidemia, cardiovascular disease, sleep apnea, psychological conditions, disc disease and severe arthritis of the lower extremities.

4. The treating physician shall prescribe a daily dosage that does not exceed the dosage recommended in the manufacturer's prescribing information for the drug prescribed or dispensed.

5. The treating physician shall not dispense or prescribe more than a 30-day supply for a patient on the first visit. Thereafter, not more than a 30-day supply shall be dispensed or prescribed at the time of each visit. The patient shall be weighed at each visit prior to dispensing or prescribing an additional supply of the drug and the weight shall be entered in the patient's record.

6. At the time of each return patient visit, the treating physician shall monitor progress of the patient. The patient's weight, blood pressure, pulse, heart and lungs shall be checked. The findings shall be entered in the patient's record. In addition to any side effects of the medications, the physician should perform appropriate exams and tests to monitor the safety of any weight loss. This may include a more detailed dietary questionnaire, serum electrolytes, blood glucose, and other tests deemed appropriate. The physician should discontinue the anorexiatic medications when the patient reaches his/her weight loss goals. These goals may be defined as a body weight that is no longer "obese" (e.g. BMI of less than or equal to 27), or an improvement in medical conditions (e.g. normalization of blood glucose.) The Rule and Regulation for patients who are no longer obese for such period of time as to allow the patient to adapt to a lifestyle change for no more than an additional sixty (60) days.

7. Except as otherwise provided by this regulation, Schedule III or IV anorexiatic drugs are only recommended for short-term use (e.g. 90 days). In addition, anorexiatic drugs should not be prescribed to a patient with a BMI of less than 27. However, the treating physician may extend therapy beyond 90 days under the following conditions:

- a. When the anorexiatic drugs are indicated for treatment of diseases other than obesity; and
- b. When, in the physician's professional judgment, the treating physician is observing and recording significant progress or benefit from the drugs and no adverse effects occur that are related to the treatment. These observations shall be documented in the patient's record.

8. Specialty clinics which market themselves to the public as centers for the treatment of obesity will be required to prescribe a

comprehensive behavior modification program and dietary counseling directed by a professional during the course of treatment.

History: Adopted March 13, 1998

REGULATION NO. 22

LASER SURGERY GUIDELINES

Pursuant to Ark. Code Ann. 17-95-202, the practice of medicine involves the use of surgery for the diagnosing and treatment of human disease, ailment, injury, deformity, or other physical conditions. Surgery is further defined by this Board as any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical means, to include the use of lasers. The Board further finds that the use of medical lasers on human beings, for therapeutic or cosmetic lasers, constitutes the practice of medicine.

Ark. Code Ann. 17-95-409(a)(2)(g) states that the Board may revoke an existing license, or suspend the same, if a physician has committed unprofessional conduct, further defined as committing gross negligence or ignorant malpractice. The Board finds that a physician has, in fact, committed gross negligence if he performs laser surgery on patients without benefit of: a) clinical experience in the use of lasers; b) training of clinical management of patients; c) continuing medical education courses in the use of lasers; d) providing appropriate preoperative, operative, and post operative management.

History: Adopted, June 5, 1998.

REGULATION NO. 23

MALPRACTICE REPORTING

A.C.A. § 17-95-103 requires every physician licensed to practice medicine and surgery in the State of Arkansas to report to the Arkansas state Medical Board within ten days after receipt or notification of any claim or filing of a lawsuit against him charging him with medical malpractice. The notice from the physician to the Board shall be sent by registered letter upon such forms as may be obtained at the office of the Board. In addition to completing the form, the physician should attach to the form a copy of the complaint if a lawsuit has been filed against him.

Should a physician fail to comply with the terms of Ark. Code Ann. § 17-95-103 and this Regulation, then the same, shall be cause for revocation, suspension, or probation or monetary fine as may be determined by the Board; after the bringing of formal charges and notifying the physician as required by the Medical Practices Act and the Administrative Procedure Act.

History: Adopted August 12, 1999

REGULATION 24

RULES GOVERNING PHYSICIAN ASSISTANTS

1. A physician assistant must possess a license issued by the Arkansas State Medical Board prior to engaging in such occupation.
2. To obtain a license from the Arkansas State Medical Board the physician assistant must do the following:
 - a. Answer all questions to include the providing of all documentation requested on an application form as provided by the Arkansas State Medical Board;
 - b. Pay the required fee for licensure as delineated elsewhere in this regulation;
 - c. Provide proof of successful completion of Physician Assistant National Certifying Examination, as administered by the National Commission on Certification of Physician Assistants;
 - d. Certify and provide such documentation, as the Arkansas State Medical Board should require that the applicant is mentally and physically able to engage safely in the role as a physician assistant;
 - e. Certify that the applicant is not under any current discipline, revocation, suspension or probation or investigation from any other licensing board;
 - f. Provide letters of recommendation as to good moral character and quality of practice history;
 - g. The applicant should be at least 21 years of age;
 - h. Show proof of graduation with a Bachelor's Degree from an accredited college or university or prior service as a military corpsman;
 - i. Provide proof of graduation of a physician assistant education program recognized by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.
 - j. Show successful completion of the Jurisprudence examination as administered by the Arkansas State Medical Board covering the statutes and Rules and Regulations of the Medical Board, the Arkansas Medical Practices Act, the Physician Assistant Act, and the laws and rules governing the writing of prescriptions for legend drugs and scheduled medication;
 - k. The submission and approval by the Board of a protocol delineating the scope of practice that the physician assistant will engage in, the program of evaluation and supervision by the supervising physician;
 - l. The receipt and approval by the Arkansas State Medical Board of the supervising physician for the physician assistant on such forms as issued by the Arkansas State Medical Board;
 - m. Provide proof of medical liability insurance.
3. If an applicant for a license submits all of the required information, complies with all the requirements in paragraph 2, except paragraph 2 (k) and the same is reviewed and approved by the Board, then the applicant may request a Letter of Intent from the Board and the Board may issue the same. Said Letter of Intent from the Board will state that the applicant has complied with all licensure requirements of the

Board except the submission of a protocol and supervising physician and that upon those being submitted and approved by the Board, it is the intent of the board to license the applicant as a physician assistant.

4. The Protocol.
 - a. This protocol is to be completed and signed by the physician assistant and his designated supervising physician. Said protocol will be written in the form issued by the Arkansas State Medical Board. Said protocol must be accepted and approved by the Arkansas State Medical Board prior to licensure of the physician assistant.
 - b. Any change in protocol will be submitted to the Board and approved by the Board prior to any change in the protocol being enacted by the physician assistant.
 - c. The protocol form provided by the Board and as completed by the physician assistant and the supervising physician will include the following:
 - (1) area or type of practice;
 - (2) location of practice;
 - (3) geographic range of supervising physician;
 - (4) the type and frequency of supervision by the supervising physician;
 - (5) the process of evaluation by the supervising physician;
 - (6) the name of the supervising physician;
 - (7) the qualifications of the supervising physician in the area or type of practice that the physician assistant will be functioning in;
 - (8) the type of drug prescribing authorization delegated to the physician assistant by the supervising physician;
 - (9) the name of the back-up supervising physicians and a description of when the back-up supervising physician will be utilized.
5. A.
 - A. A physician assistant must be authorized by his supervising physician to prescribe legend drugs and scheduled medical for patients. Said authorization must be stated in the protocol submitted by the physician assistant to the Board and approved by the board. A supervising physician may only authorize a physician assistant to prescribe schedule medication that the physician is authorized to prescribe. A physician assistant may only be authorized to prescribe schedule III through V medications. The physician assistant will write prescriptions for scheduled medications by utilizing a triplicate prescription form with the original going to the patient and the pharmacist, a copy being placed in the chart of the patient and a second copy being sent to the Board on a quarterly basis. The requirement of writing triplicate prescriptions and forwarding a copy to the Board may be waived by the Board after a period of supervised monitoring by the Board. A physician assistant may not utilize telephone prescribing authority when prescribing scheduled medications III through v. Prescriptions written by a physician assistant must contain the name of the supervising physician on the prescription.
 - B. The physician assistant will make an entry in the patient chart noting the name of the medication, the strength, the dosage, the quantity prescribed, the directions, the number of refills, together with the signature of the physician assistant and the printed name of the supervising physician for every prescription written for a patient by the physician assistant.

- C. The supervising physician shall be identified on all prescriptions and orders of the patient in the patient chart if issued by a physician assistant.
6. A supervising physician should be available for immediate telephone contact with the physician assistant any time the physician assistant is rendering services to the public. A supervising physician must be able to reach the location of where the physician assistant is rendering services to the patients within one hour.
 7. A. The supervising physician for a physician assistant must fill out a form provided by the Board prior to him becoming a supervising physician. Said supervising physician must provide to the Board his name, business address, licensure, his qualifications in the field of practice in which the physician assistant will be practicing and the name(s) of the physician assistant(s) he intends to supervise.
 B. The supervising physician must submit to the Board a notarized letter stating that they have read the regulations governing physician assistant and will abide by them and that they understand that they take full responsibility for the actions of the physician assistant while that physician assistant is under their supervision.
 C. Back-up or alternating supervising physicians must adhere to the same statutory and regulatory rules as the primary supervising physician.
 8. A. Physician assistants provide medical services to patients in a pre-approved area of medicine. Physician assistants will have to provide medical services to the patients consistent with the standards that a licensed physician would provide to a patient. As such, the physician assistant must comply with the standards of medical care of a licensed physician as stated in the Medical Practices Act, the Rules and Regulations of the Board and the Orders of the Arkansas State Medical Board. A violation of said standards can result in the revocation or suspension of the license when ordered by the Board after disciplinary charges are brought.
 B. A physician assistant must clearly identify himself or herself to the patient by displaying an appropriate designation, that is a badge, name plate with the words "physician assistant" appearing thereon.
 C. A physician assistant will not receive directly from a patient or an insurance provider of a patient any monies for the services he or she renders the patient. Payment of any bills or fees for labor performed by the physician assistant will be paid to the employer of the physician assistant and not directly to the physician assistant.
 9. The supervising physician is liable for the acts of a physician assistant whom her or she is supervising if said acts of the physician assistant arise out of the powers granted the physician assistant by the supervising physician. The supervising physician may have charges brought against him by the Arkansas State Medical Board and receive sanctions if the physician assistant should violate the standards of medical practice as set forth in the Medical Practices Act., the Rules and regulations of the Board and the standards of the medical community.
 10. Continuing Medical Education:
 - a. A physician assistant who holds an active license to practice in the State of Arkansas shall complete 20 credit hours per year continuing medical education.
 - b. If a person holding an active license as a physician assistant in this State fails to meet the foregoing requirement because of illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstances, the Board upon appropriate written application may grant an extension of time to complete the same on an individual basis.
 - c. Each year, with the application for renewal of an active license as a physician assistant in this state, the Board will include a form which requires the person holding the license to certify by signature, under penalty of perjury, and disciplined by the Board, that he or she has met the stipulating continuing medical education requirements. In addition, the Board may randomly require physician assistants submitting such a certification to demonstrate, prior to renewal of license, satisfaction of continuing medical education requirements stated in his or her certification.
 - d. Continuing medical education records must be kept by the licensee in an orderly manner. All records relative to continuing medical education must be maintained by the licensee for at least three years from the end of the reporting period. The records or copies of the forms must be provided or made available to the Arkansas State Medical Board.
 - e. Failure to complete continuing education hours as required or failure to be able to produce records reflecting that one has completed the required minimum medical education hours shall be a violation and may result in the licensee having his license suspended and/or revoked.

History: Adopted December 7, 1977; Amended October 9, 1999; Amended December 10, 1999; Amended February 4, 2000;

Replaced Regulation 4

REGULATION 25

CENTRALIZED CREDENTIALS VERIFICATION SERVICE ADVISORY COMMITTEE GUIDELINES

1. **PURPOSE.** The Centralized Credentials Verification Advisory Committee (CCVSAC) is established in accordance with Act 1410 of 1999 for the purpose of providing assistance to the Arkansas State medical Board in operating a credentialing service to be used by credentialing organizations, and health care professionals. The CCVSAC shall advocate the system throughout the state, and work with customers to identify opportunities to improve the system.

2. **MEMBERSHIP.** The CCVSAC will consist of ten (10) standing members who are recommended by the CCVSAC and appointed by the Arkansas State Medical Board, at least six (6) of which shall be representatives of credentialing organizations which must comply with Act 1410. Of these six (6) members, at least two (2) shall be representatives of licensed Arkansas hospitals and at least two (2) shall be representatives of insurers or health maintenance organizations. The term of each member shall be annual, and members may serve consecutive terms. Ad hoc members will be appointed as necessary by the CCVSAC. Committee members will complete and file with the secretary, a conflict of interest disclosure

statement annually. This statement will be retained in the permanent records of the CCVSAC.

3. OFFICERS. The Arkansas State Medical Board will appoint the Chairman of the CCVSAC. The CCVSAC will elect a Vice-Chairman and any other officers or workgroups desired. CCVSAC meetings will be staffed by Arkansas State Medical Board personnel.

4. MEETINGS. Meetings of the CCVSAC will be held on a quarterly basis, or more frequently if needed. CCVSAC members will be notified of changes in operations of the credentials verification service between meetings. CCVSAC members will be consulted or informed of major operational changes before such changes are implemented.

5. POLICIES. It is the intent of the Arkansas State Medical Board to provide the CCVSAC maximum input into policies concerning the operation of the credentialing verification service. Policies will be developed and adopted concerning:

- a. Fees to be charged for use of the service. Fees will be based on costs of operating the service, and the costs shall be shared pursuant to Act 1410.
- b. Availability of the service. Availability includes time required to gain access, time allowed in the system and geographic availability.
- c. Accessibility and Security of the service.
 1. Release of information from physicians.
 2. Approval for users to gain access.
 3. Password identification requirements.
- d. Audit Privileges for records maintained by the Arkansas State Medical Board. (The CCVSAC will represent all users and will perform periodic audits in accordance with established procedure [POLICY FOR AUDITS, POLICY NO. 95-4] to ensure the integrity of Arkansas State Medical Board processes and information available.)
- e. Contract Format development for subscribers who use the service.
- f. Other Policies as needed for operation of the credentials verification service.

6. APPROVALS. A quorum (fifty percent of the CCVSAC) must be present to approve changes in policies or other actions. Proxies may be given to other CCVSAC members voting. A majority of voting members will be considered sufficient to provide a recommendation to the Arkansas State Medical Board for implementation.

History: Adopted February 4, 2000