

# ARKANSAS REGISTER

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## Transmittal Sheet

NOV 5 1993



W. J. "BILL" McCUEN  
SECRETARY OF STATE

W. J. "BILL" McCuen  
Secretary of State  
State Capitol Rm. 010  
Little Rock, Arkansas 72201-1094

W. J. "BILL" McCUEN  
SECRETARY OF STATE  
LITTLE ROCK, ARKANSAS

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For Office Use Only:

Effective Date 11/25/93 Code Number 060.00.93-001

Name of Agency Arkansas State Medical Board

Department N/A

Contact Person Peggy Cryer, Executive Secretary, 324-9410; Bill Trice, atty, 372-4144

Statutory Authority for Promulgating Rules A.C.A. 17-93-303

Intended Effective Date	Date
<input type="checkbox"/> Emergency	Legal Notice Published . . . . . <u>July 8, 1993</u>
<input checked="" type="checkbox"/> 20 Days After Filing	Final Date for Public Comment . . . . . <u>Sept. 16, 1993</u>
<input type="checkbox"/> Other	Filed With Legislative Council . . . . . <u>July 20, 1993</u>
_____	Reviewed by Legislative Council . . . . . <u>Oct. 7, 1993</u>
	Adopted by State Agency . . . . . <u>Sept 16, 1993</u>

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted In Compliance with Act 434 of 1967 As Amended.

*Peggy Cryer*  
Signature

Executive Secretary  
Title

\_\_\_\_\_  
Date

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HOWELL, TRICE & HOPE, P.A.

ATTORNEYS AT LAW  
211 SPRING STREET  
LITTLE ROCK, ARKANSAS 72201

NOV 5 1993

W. J. "BILL" McCUEN  
SECRETARY OF STATE

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BY \_\_\_\_\_ BY \_\_\_\_\_  
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AR. REGISTER DIV.  
W. J. "BILL" McCUEN  
SECRETARY OF STATE  
LITTLE ROCK, ARKANSAS

November 5, 1993

The Honorable W. J. "Bill" McCuen  
Secretary of State  
State Capitol, Room, 010  
Little Rock, Arkansas 72201-1094

RE: Rules and Regulations of the Arkansas State Medical Board

Dear Mr. McCuen:

I am the attorney who represents the Arkansas State Medical Board. I have enclosed for you a copy of all of the Rules and Regulations of the Arkansas State Medical Board except Regulation 15. I am filing them with your office in compliance with Arkansas Code § 25-15-204 and 205 of the Administrative Procedure Act.

The Arkansas State Medical Board has been in existence since 1947 and has passed numerous Rules and Regulations as well as numerous amendments to those same Rules and Regulations. In order to ensure that each of the present Rules of the Board were in compliance with the Administrative Procedure Act, as well as Ark. Code Ann. § 10-3-309, I have published all of the Rules and Regulations in the Arkansas Democrat-Gazette, held a public hearing on the 16th of September, 1993, filed said Rules and Regulations with the Legislative Council on the 20th of July, 1993 and had all of them approved by the Legislative Council except Regulation 15 on the 7th of October, 1993.

Regulation 15 was approved by the Board on the 16th of September, 1993, but the same was ruled invalid by the Pulaski County Circuit Court. Do not print this Regulation.

All of the Rules and Regulations of the Arkansas State Medical Board that I have enclosed have been approved by the Legislative Council.

The Honorable W. J. "Bill" McCuen  
November 5, 1993  
Page -2-

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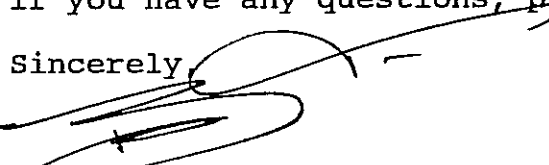
NOV 5 1993

W. J. "BILL" MCCUEN  
SECRETARY OF STATE  
BY \_\_\_\_\_

Please do what ever publication is necessary in the Arkansas Register and provide us proof of compliance.

If you have any questions, please do not hesitate to contact me.

Sincerely,



William H. Trice, III  
Attorney for Arkansas  
State Medical Board

WHT/ph

Enclosures

cc: Peggy Pryor Cryer

HOWELL, TRICE & HOPE, P.A.

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For publication in Arkansas Democrat Gazette

One day beginning June 9, 1993

Bill to:

Arkansas State Medical Board  
2100 Riverfront Drive, Suite 200  
Little Rock, Arkansas 72202  
Telephone: (501) 324-9410

Copy of proof of publication sent to:

William H. Trice, III  
Attorney for the Arkansas State Medical Board  
211 Spring Street  
Little Rock, Arkansas 72201  
Telephone: (501) 372-4144

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LITTLE ROCK, ARKANSAS

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NOV 5 1993

W. J. "BILL" MCCUEN  
SECRETARY OF STATE  
BY \_\_\_\_\_

NOTICE OF PUBLIC HEARING

In compliance with Arkansas Code Annotated §25-15-204, the Arkansas State Medical Board gives notice that it will conduct a public hearing at 8:30 a.m. on the 16th day of September, 1993 at the offices of the Arkansas State Medical Board, 2100 Riverfront Drive, Suite 200, Little Rock, Arkansas. The public hearing will involve the review and changes in the Rules and Regulations of the Arkansas State Medical Board. Said Rules and Regulations reading as follows:

For publication in Arkansas Gazette

"See attached sixteen (16) regulations."

All individuals desiring to attend said hearing may do so. All individuals desiring to address the Board should contact Mrs. Peggy Cryer, Executive Secretary of the Board, tel. no. 1-324-9410, to be placed on the agenda.

# REGULATIONS OF THE ARKANSAS STATE MEDICAL BOARD

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## 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 ~~consists of a chairman, vice chairman, secretary, and treasurer~~ 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.

W. J. "BILL" McCUEN

## 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.

## 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.)

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, and
9. Present evidence that he holds a valid unrevoked certificate issued by the State Board of Examiners in the Healing Arts (this certificate may be waived by the Board if the applicant presents indisputable evidence that he has been licensed to practice medicine 10 years since his graduation from medical school).

## REGULATION NO. 4

### REGULATIONS GOVERNING PHYSICIAN'S TRAINED ASSISTANTS

1. A physician's trained assistant must possess a certificate issued by the Arkansas State Medical Board prior to engaging in such occupation.
2. A physician's trained assistant must be a skilled person, qualified by academic and clinical training, to provide patient services under the supervision and responsibility of a physician. The physician employing the physician's trained assistant shall be responsible for the performance of the physician's trained assistant.
3. The work of the physician's trained assistant shall be done under the supervision of a physician who retains responsibility for patient care, although the physician need not be physically present at each activity of the assistant nor be specifically consulted before each delegated task is performed. The physician's trained assistant may be involved with the patients of the physician in any medical setting within the established scope of the physician's practice, not prohibited by law. The physician's trained assistant's service may be utilized in all medical care settings, including the office, the ambulatory clinic, the hospital if approved by the hospital medical staff and board of directors of the hospital, the patient's home, extended care facilities, and nursing homes. Diagnostic and therapeutic procedures

common to the physician's practice may be assigned after demonstration of proficiency and competency is made by the physician's trained assistant.

4. The physician's trained assistant certificates shall only be issued by the Arkansas State Medical Board upon application by both the employing physician and the physician's trained assistant.
  - A. The physician's application shall disclose the professional background, specialty, and scope of practice of the physician, a description of the physician's practice and the way in which the assistant is to be utilized, and such other information as the Board may require. The physician application shall also list the names of any and all physicians to whom the physician's trained assistant shall be responsible in the absence of the employing physician.
  - B. The physician's trained assistant's application shall disclose the qualifications, including the related experience possessed by the physician's trained assistant, and such other information as the Board may require.
5. All applicants for physician's trained assistant certificates shall meet the following qualifications:
  - A. Have successfully passed an examination for physician's assistants prepared by the National Board of Medical Examiners and certified by the National Commission on Certification of Physician Assistants; and
  - B. Have successfully completed a course of study in a curriculum for training of physician assistants offered by a school or institution accredited by the Council on Medical Education of the American Medical Association or possess a current license as a registered nurse or licensed practical nurse issued by the Arkansas State Board of Nursing; and
  - C. Have successfully completed a one year program of practical training of physician's trained assistants established by an approved hospital which program shall have been approved by the Arkansas State Medical Board.
6. A physician's trained assistant employed in an academic position in an institution devoted to the health sciences shall be the responsibility of and responsible to the dean physician or his physician designate of the appropriate college or university.
7. All educational and/or experimental programs for physician's trained assistants operating beyond the physical confines of educational institutions in the medical sciences shall obtain approval of the Arkansas State Medical Board before initiating such programs. Applications for approval shall:
  - A. Identify all personnel (student, instructor, physician, etc.) involved;
  - B. Specify the locations, facilities, content, and purpose of such program;
  - C. Furnish job descriptions and duration of program; and
  - D. Other information as the Board may require.
8. The Board shall not approve an application for any one physician to supervise more than two physician's trained assistants at any one time.
9. Certificates of a physician's trained assistant shall not be transferable to a different employing physician, except by proper application and approval of the Arkansas State Medical Board. No physician's trained assistant shall be under the supervision of more than two physicians licensed by the Arkansas State Medical Board at any given time. The certificate shall be displayed prominently at the assistant's office of employment and shall bear a seal issued by the Board.
10. Physician's trained assistants may perform routine visual screening, pre-operative or post-operative care or assistance

- in the care of diseases of the eye as done under the supervision of a physician.
11. A registry of the qualifications of physician's trained assistants and the employing physician shall be kept in the office of the Arkansas State Medical Board.
  12. Initial certification shall be for one year and renewed annually on that anniversary date. Recertification and review of the physician's trained assistant, the employing physician and his practice shall be made prior to renewal of the certificate.
  13. A fee of fifty dollars (\$50.00) shall be charged for each initial certification as a physician's trained assistant. Annual renewal fees, not to exceed two dollars (\$2.00) per annum, shall be determined by the Board. The physician employer shall pay fifty dollars (\$50.00) for the initial application but shall not be charged for annual renewals. Additional charges will be made for examination.
  14. A physician's trained assistant must:
    - A. Clearly identify himself to the public and the patient as an assistant to a physician by the display of an appropriate designation, i.e., badge, nameplate, with "physician's trained assistant" appearing thereon.
    - B. Function only under the direct supervision of a licensed physician. Independent health care by a physician's trained assistant shall not be permitted.
    - C. Be prepared to demonstrate, at the request of the Board, satisfactory ability to perform those tasks assigned to him by his employer-physician.
    - D. Pay such fees as are required by the Board for expenses incurred in the evaluation of his qualifications and his continuing performance.
  15. The supervising physician shall sign all prescriptions.
  16. All bills or statements for fees rendered by the physician's trained assistant shall be in the name of the supervising physician. The supervising physician and the physician's trained assistant may enter into such an agreement as they consider just respecting the accounting by physician's trained assistants for cash fees collected by the physician's trained assistant. The physician's trained assistant must obtain and have in force at all times a malpractice insurance policy issued by an insurance company approved by the Department of Insurance of the state of Arkansas in the minimum amount of ten thousand dollars (\$10,000.00).
  17. The Board may revoke or suspend an existing certificate issued to a physician's trained assistant or may refuse to issue a certificate in the event the holder thereof or the applicant therefor has committed any of the acts or offenses described in Ark. Stat. Ann. 72-619 or the regulations of the Board as unprofessional conduct. Procedure in all disciplinary matters shall be as provided by ~~Ark. Stat. Ann. 72-614~~

ACA 17-93-410

## REGULATIONS GOVERNING THE PHYSICIAN'S TRAINED ASSISTANT TO THE GENERAL PRACTITIONER

The physicians' trained assistant to the general or primary care practitioner including the family practitioner may perform the following tasks and procedures:

1. Receiving patients, obtaining case histories, performing an appropriate physical examination, and presenting meaningful resulting data to the physician.
2. Performing or assisting in laboratory procedures and related studies in the practice setting.
3. Giving injections and immunizations when the supervising physician is on the premises or immediately available.

4. Suturing and caring for superficial wounds not involving the muscles, nerves, tendons, joints, or face unless first viewed by the supervising physician.
5. Providing patient counseling services; referring patients to other health care resources;
6. Responding to emergency situations which arise in the physician's absence within the assistant's range of skills and experience; and,
7. Assisting the employing physician in all settings such as the office, hospitals, if approved by the medical staff and board of directors of the hospital; extended care facilities, nursing homes, and the patient's home.

## REGULATION NO. 5

### REGULATIONS FOR PHYSICAL THERAPIST ASSISTANTS AND PHYSICAL THERAPIST ASSISTANTS TRAINEE

BOARDS SEPARATED, JULY 1, 1991

REVOKED

## 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 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 TIME AND PLACE OF FILING. Completed applications shall be mailed together with necessary documents and filing fee to the Board at least 30 days prior to the date of the examination and 60 days prior to the next scheduled meeting of the Board. Applications filed after the deadline will be considered at the next quarterly meeting of the Board. The filing fee is not refundable.
  - 1.3 BOARD ACTION ON APPLICANTS. Applications for examination shall be acted upon by the Board at its next regularly scheduled general meeting following the receipt of the required fee and all credentials. Applicants qualifying for the examination will be notified as to the examination process and fee.
2. EXAMINATION. All occupational therapists are required to pass an examination, approved by the Board, for license to practice the profession in Arkansas, except as otherwise provided in Sections 9, 10.2 and 12 of the act. The Board has adopted for this purpose the examination administered by the American Occupational Therapy Certification Board for the certification of occupational therapists and occupational therapy assistants.
  - 2.1 TIME AND SUPERVISION. Applicants for licensure shall be examined for licensure at a time and under supervision as the Board may determine. For this purpose the Board shall follow the schedule and format set by the American Occupational Therapy Certification Board and its designated agent.
  - 2.2 FREQUENCY AND PLACE. Examination shall be given

at least twice a year at such a place in the state as may be determined by the American Occupational Therapy Certification Board, upon approval of the Board. Reasonable public notice of such examination shall be given by the American Occupational Therapy Certification Board, at least sixty (60) days prior to its administration. Issuance of such public notice shall be verified by the Board.

- 2.3 **PASSING SCORE.** The Board shall establish as the standard for acceptable performance for each examination that score designated as passing by the American Occupational Therapy Certification Board. Applicants may obtain their examination scores in accordance with such rules as the American Occupational Therapy Certification Board may establish, upon approval of the Board.
- 2.4 **RE-EXAMINATION.** An applicant who fails an examination may make reapplication for re-examination accompanied by the prescribed fee. Any applicant who fails three (3) examinations must take additional educational work in the areas of his weakness as deemed necessary by the Board before being eligible for re-examination.
3. **LICENSING.** All occupational therapists must be licensed to practice in the state of Arkansas.
- 3.1 **BY EXAMINATION.** The Board shall register as an occupational therapist and shall issue a license to any person who satisfactorily passes the said 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 OR EXAMINATION.** The Board shall waive the examination and grant a license as an occupational therapist registered (O.T.R.) or any person who:
- Applies for licensure on or before July 1, 1978, and
  - Prior to the effective date of the Act was certified as an occupational therapist registered by the American Occupational Therapy Association, or,
  - Has graduated from an accredited baccalaureate or master's degree or advanced standing certificate program in occupational therapy and has been practicing occupational therapy in the state of Arkansas for at least one (1) year prior to the effective date of the Act.
- 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 who are required to be licensed in order to obtain employment as an occupational therapist. 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 secretary of the Board.
- 3.4 **RECIPROCITY.** 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 the Act 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 by the Board of the state of Arkansas. The issuance of such 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 such admission as it may deem necessary or desirable. Any occupational therapist who has been certified by the American Occupational Therapy Association and who has been in continuous practice for the past five 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.

### 3.5 RENEWAL.

- A renewal or re-registration fee of \$25.00 shall be paid to the Committee by each occupational therapist and occupational therapy assistant who holds a license to practice occupational therapy in the State of Arkansas.
- 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:
  - 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.
  - Professional presentations, workshops, institutes presented by the therapist (same presentation counted only once). Hour for hour credit; five (5) hour maximum per year.
  - Formal academic coursework. 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.
  - 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 by November 30 prior to the expiration of the license.
  - Self-study.
    - Book or journal review. Must be verified by submission of a one (1) page typewritten review of the material studied. One (1) hour credit per review; two (2) hour maximum per year.
    - 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 by November 30 prior to the expiration of the license.
- 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 by October 31 prior to the expiration of the license. 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:
  - Official transcripts documenting completion of academic coursework.
  - A signed 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.

- (3) 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. Credit for excess hours earned in one year may be used for the following calendar year, up to ten hours. 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 irrelevant 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 a 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 in January of each year. Failure to re-register and comply with the continuing education requirements by 1 March of that year shall cause the license of the occupational therapist in question to automatically expire. This requirement becomes effective 1993 with the first submission of continuing education credits being required in January of 1994.

- 3.6 REINSTATEMENT. Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty of Ten and No/100 (\$10.00) Dollars for each year or part of a year he has been delinquent. Any person who shall fail to re-register and pay the annual license fee for five (5) consecutive years shall be required to be re-examined by the Board 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, 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;
- (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 if the acts for which he was convicted are found by the Board to have direct bearing on whether he should be entrusted to serve the public in the capacity of an occupational therapist;
- (e) Use of any narcotic 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.

#### 4. FEES. The fees are as follows:

	OTR	OTA
1. Application for license	\$50.00	\$25.00
2. Application for license by reciprocity	\$50.00	\$25.00
3. Application for license by waiver of examination	\$50.00	\$25.00
4. Application for a temporary license	\$25.00	
5. Reinstatement fee: All delinquent fees plus \$10.00 per year for all years delinquent.		
6. Annual renewal fee	\$25.00	\$25.00

#### 5. DEFINITIONS

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

- 5.2 FREQUENT SUPERVISION DEFINED. Supervision of occupational therapy assistants employed in a facility licensed as a hospital, nursing home, rehabilitation center, or any agency, foundation, institution, etc., providing evaluation and acute and rehabilitation treatment of patients must have frequent, meaning daily, supervision by a licensed occupational therapist on the staff of said facility.

- 5.3 REGULAR SUPERVISION DEFINED. Supervision of occupational therapy assistants employed in a facility licensed as an extended care facility, nursing home, or other agency, foundation, institution, etc., not providing acute or rehabilitation treatment must have regular supervision by a licensed occupational therapist no less than four times per year for program review and development.

#### 5.4 DIRECT SUPERVISION OF AIDES DEFINED.

- (1) An occupational therapy aide is an unlicensed person who assists in the practice of occupational therapy, who works under the direct daily supervision of a licensed occupational therapist, and 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. An occupational therapy aide is a worker who is trained on the job to meet the specific needs of the facility.
- (2) A licensed occupational therapist may delegate to an occupational therapy aide only specific tasks which are neither evaluative, assessive, task selective nor recommendative in nature, and only after insuring the aide has been appropriately trained for the performance of the task.
- (3) Any duties assigned to an occupational therapy aide must be determined and appropriately supervised daily by a licensed occupational therapist and must not exceed the level of training, knowledge, skill and

competence of the individual being supervised. 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.

- (4) Duties or functions which occupational therapy aides shall not perform include the following:

- (a) Interpreting referrals or prescriptions for occupational therapy services;
- (b) Performing evaluative procedures;
- (c) Developing, planning, adjusting, or modifying treatment procedures;
- (d) Preparing written documentation of patient treatment or progress;
- (e) Acting independently or without supervision of a licensed occupational therapist during patient therapy sessions.

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

PREAMBLE: This association and its component members are committed for furthering man's ability to function fully within his total environment. To this end the occupational therapist renders service to clients in all stages of health and illness, to institutions, other professionals, colleagues, students, and to the general public.

In furthering this commitment the American Occupational Therapy Association has established the Principles of Occupational Therapy Ethics. It is intended that they be used by all occupational therapy personnel, including practitioners in all settings, administrators, educators, and students. These principles should be reflected in and supported by licensing laws, regulations, consultation, planning, and teaching. They are intended to be action oriented, guiding and preventive rather than negative or merely disciplinary. However, it is intended that these principles are only for internal use by the American Occupational Therapy Association as a guide to appropriate conduct of its members, and is not intended as a definition for patients or clients of a standard of care expected in any community. Professional maturity will be demonstrated in applying these basic principles while exercising the large measure of freedom which they provide and which is essential to responsible and creative occupational therapy service. For the purpose of continuity, the following definitions will support information in this document: Occupational therapist includes registered occupational therapists, certified occupational therapy assistants, and occupational therapy students. Clients include patients and those to whom occupational therapy services are delivered.

- 6.1 RELATED TO THE RECIPIENT OF SERVICE. The occupational therapist demonstrates a beneficent concern for the recipient of services and maintains a goal-directed relationship with the recipient which furthers the objectives for which it is established. Services are evaluated against objectives and accountability is maintained therefore. Respect shall be shown for the recipients' rights and the occupational therapist will preserve the confidence of the patient relationship.
- 6.2 RELATED TO COMPETENCE. The occupational therapist shall actively maintain and improve one's professional competence, represent it accurately, and function within its perimeters.
- 6.3 RELATED TO RECORDS, REPORTS, GRADES, AND RECOMMENDATIONS. The occupational therapist shall confirm to local, state and federal laws and regulations, and regulations applicable to records and reports. The occupational therapist abides by the

employing institution's rules. Objective data shall govern subjective data in evaluations, grades, recommendations, records, and reports.

- 6.4 RELATED TO INTRA-PROFESSIONAL COLLEAGUES. The occupational therapist shall function with discretion and integrity in relations with other members of the profession and shall be concerned with the quality of their services. Upon becoming aware of objective evidence that a breach of ethics or substandard service, the occupational therapist shall take action according to established procedure.
- 6.5 RELATED TO OTHER PERSONNEL. The occupational therapist shall function with discretion and integrity in relations with personnel and cooperate with them as may be appropriate. Similarly, the occupational therapist expects others to demonstrate a high level of competence. Upon becoming aware of objective evidence of a breach of ethics or substandard service, the occupational therapist shall take action according to established procedure.
- 6.6 RELATED TO EMPLOYERS AND PAYERS. The occupational therapist shall render service with discretion and integrity and shall protect the property and property rights of the employers and payers.
- 6.7 RELATED TO EDUCATION. The occupational therapist implements a commitment to the education of society and the consumer of health services as well as to the education of health personnel on matters of health which are within the purview of occupational therapy.
- 6.8 RELATED TO EVALUATION AND RESEARCH. The occupational therapist shall accept responsibility for evaluating, developing, and refining service and the body of knowledge and skills which underlie the education and practice of occupational therapy and at all times protects the rights of subjects, clients, institutions, and collaborators. The work of others shall be acknowledged.
- 6.9 RELATED TO THE PROFESSION. The occupational therapist shall be responsible for gaining information and understanding of the principles, policies, and standards of the profession. The occupational therapist functions as a representative of the profession.
- 6.10 RELATED TO THE LAW AND REGULATIONS. The occupational therapist shall seek to acquire information about applicable local, state, federal, and institutional rules and shall function according thereto.
- 6.11 RELATED TO CONDUCT. The occupational therapist shall not appear to act with impropriety nor engage in illegal conduct involving moral turpitude and will not circumvent the principles of occupational therapy ethics through actions of another.
- 6.12 RELATED TO BIOETHICAL ISSUES AND PROBLEMS OF SOCIETY. The occupational therapist seeks information about the major health problems and issues to learn their implications for occupational therapy and for one's own services.

## AMENDED 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;

- (3) Phenmetrazine and its salts; must comply with both state and federal laws and, in addition, must contain a notation, written on the prescription by the physician writing the prescription, of the physical or mental condition of the patient which indicated the prescription. Prescriptions for these controlled drugs may be written by a physician only for the treatment of Narcolepsy or Hyperkinesis. 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 Hyperkinesis and (2) that the controlled drug is the drug of choice. Upon application to the Board and upon demonstration of need, any physician who specializes in the treatment of Hyperkinesis, Attentional Deficit Disorder with or without hyperactivity and Narcolepsy may obtain exemption from the requirements of this regulation. The Board shall maintain a register of all licensed physicians thus exempted.

Violations of this regulation shall constitute grossly negligent or ignorant malpractice and shall subject the physician to all penalties provided in ~~Arkansas Stat. Ann. 73-612~~

ACA 17-93-409(7)

## REGULATION NO. 8

### QUALIFICATIONS FOR EXAMINATION FOR MEDICAL LICENSURE

Examinations for medical licensure will be given to all applicants meeting the standards for qualifications for medical licensure contained in Ark. Stat. 17-93-403. Application for licensure by examination will be received by the secretary of the Board at any time, but examinations will not be given to an applicant until he has graduated from a recognized United States or Canadian Medical or Osteopathic School and has received a diploma from said school evidencing his graduation therefrom.

The date, time, and place for said examination will be selected by the Board immediately upon receipt by the Board of the date of availability of the FLEX Examination. Notification of the date, time, and place of said examination will be made by the secretary of the Board, within three days after receipt of said date of availability, to the candidates for examination at the address given by them in their application for licensure.

Provisions of Ark. Stat. 17-93-403 will be enforced by the Board.

ADOPTED: SEPTEMBER 14, 1979

1. Except as provided in paragraph #2, hereof, all applicants for examination for medical licensure in the state of Arkansas shall submit to the Arkansas State Medical Board, as prerequisite to examination, a properly verified certificate evidencing that the applicant has completed one year of internship in a general accredited hospital.
2. Completion of one year's internship shall not be a prerequisite for examination of the following applicants:
  - (a) Senior level students in the University of Arkansas College of Medicine who present to the Board a certificate from the Dean of the University of Arkansas College of Medicine certifying that the applicant will graduate prior to the next licensure examination.
  - (b) Citizens of the state of Arkansas who have been citizens of this state for five years prior to application for examination and who are graduates of foreign medical schools and have submitted to the Board evidence of successful completion of the examination for foreign medical graduates administered by the Educational Commission for Foreign Medical Graduates (ECFMG).

## REGULATION NO. 9

Pursuant to the provisions of Ark. Stat. Ann. 17-93-403 which reads: "Provided that the Arkansas State Medical Board may at such time as it deems expedient require of all applicants for licensure a properly verified certificate that they have served one year of internship, residency or past graduate work, in a general accredited hospital", except as hereinafter provided, all applicants for licensure shall be required to provide a properly verified certificate that they have served one year of internship in a general accredited hospital prior to licensure in the state of Arkansas.

Any graduate of the University of Arkansas College of Medicine who has met the requirements of Ark. Stat. Ann. 17-93-403, and 17-93-404, shall be granted a license to practice medicine in this state upon application, prior to completion of an internship, residency or past graduate work. Said license shall be conditioned upon the submission of proof, within 18 months from the date of graduation from medical school, that the applicant has satisfactorily completed one year of internship in a general accredited hospital; provided, that the State Medical Board may extend the 18-month period in case of hardship.

## 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 Section 5 or 6 of Act 952 of 1987, 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.
  - 1.2 TIME AND PLACE OF FILING. Applicants pursuing licensure in the state of Arkansas by examination shall mail completed applications together with necessary documents and fees to the Board by the following dates:
 

Examination	Deadline
March	December 15
July	April 15
November	August 15

Applications filed after the aforementioned deadlines will be considered by the Board for the next scheduled examination.

2. EXAMINATION. All respiratory care practitioners shall be required to pass an examination, approved by the Board, for a license to practice the profession in Arkansas, except as otherwise stated in Sections 8 and 12 of Act 952 of 1987. 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.
  - 2.1 TIME AND SUPERVISION. Applicants for licensure shall be examined for licensure at a time and under supervision as the Board may determine as stated in Section 5 of Act 952 of 1987.
  - 2.2 FREQUENCY AND PLACE. All examinations will be given in the city of Little Rock at a time and place published by the Board. The Board shall give reasonable public notice of such examination and deadlines in accordance with its rules at least sixty (60) days prior to its administration.
  - 2.3 PASSING SCORE. The Board shall establish with recommendations from the Arkansas Respiratory Care Examining Committee, the standards for acceptable performance for each examination.

- 2.4 RE-EXAMINATION. Any applicant who fails an examination and is refused a license may repeat the examination upon payment of the prescribed fee.
3. LICENSING. All respiratory care practitioners in the state of Arkansas must be licensed to practice, except as otherwise stated in Section 15 of Act 952 of 1987.
- 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 Section 8.2 of Act 952 of 1987.
- 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.
- 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 \$5.00 shall be paid to the Board by each respiratory care practitioner who holds a license to practice respiratory care in the state of Arkansas. This re-registration fee shall be paid in the month of January. The license of any person failing to re-register and pay said fee by March 1 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 \$3.00 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: \$150.00

At the applicants option: \$75.00 initially and \$75.00 prorated over a three-month period at \$25.00 a month.

All prorated fees shall be due on or before the 15th of each month and will be considered delinquent after the 20th day of each month. Applicants whose fees are delinquent more than one month shall have their license suspended by the Board until all remaining fees are paid in full. Failure to comply shall result in the Board revoking said license. All prorated fees collected from an applicant shall be nonrefundable. 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: ..... \$5.00

Re-examination: ..... \$80.00

Reinstatement: All delinquent fees plus a penalty of \$3.00 per year for all years delinquent.

5. CONTINUING EDUCATION. All respiratory care practitioners licensed by the Board in the state of Arkansas must show documentation of completion of six (6) continuing education units as a condition for renewal of licensure.

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 for 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.

5.2 TYPES OF ACTIVITIES NOT ACCEPTABLE FOR CONTINUING EDUCATION CREDIT. The following activities are not acceptable for meeting continuing education requirements:

- Unsupervised courses of study.
- Organization activity such as service on committees or councils or as officers in a professional organization.
- Any activity completed 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 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.

- d. 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:

- a. For completed applicable respiratory care course work, five (5) continuing education units will be awarded for each semester credit or hour successfully completed.
- b. 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.
- 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, nine (9) continuing education units will be awarded.

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 4.1:

- 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 952, the Arkansas Respiratory Care Act of 1987.

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).

## REGULATION NO. 11

SCHEDULED MEETING DATES REPEALED

*Revoked*

## 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. Stat. Ann. 72-612~~

ACA 17-93-409

## REGULATION NO. 13

ACA 17-93-405

WHEREAS, the Arkansas State Medical Board is vested with discretion (pursuant to ~~Ark. Stat. Ann. #72-600~~) 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 examinations; and in order to establish objective criteria of equivalency in licensure requirements, the Board hereby finds that all applicants for licensure by reciprocity 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 have met 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 and upon which license reciprocity is sought. All applicants for licensure by reciprocity who were graduated from an American or Canadian medical school subsequent to 1975 shall be required to present evidence of satisfactory completion of the FLEX (Federation Licensing Examination) or National Board as a prerequisite to the issuance of a license to practice medicine in this state by reciprocity. Graduates of Canadian medical schools shall be deemed to have satisfied the equivalent requirements for completion of the LMCC (Licentiate of the Medical Council of Canada) examination.

## 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 Exam
  - (b) The National Board of Medical Exam
  - (c) The United States Medical Licensing Exam
  - (d) Le Medical Counsel of Canada Exam
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) Federal Licensing Exam
  - (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) Federal Licensing Exam
  - (b) The National Board of Osteopathic Medicine Exam
  - (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 Federal Licenses 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

## REGULATION NO. 15

### NURSE PRACTITIONER REGISTRATION AND SUPERVISION

1. Any physician licensed to practice medicine in the State of Arkansas employing and/or utilizing on a regular basis the services of a licensed Registered Nurse Practitioner (as defined by Act 613 of the Acts of Arkansas of 1979) shall give notice to the Arkansas State Medical Board on forms provided for this purpose by the Board and shall furnish the following information:
  - (a) The physician's notice shall disclose the professional background, specialty, and scope of practice of the

physician, a description of the physician's practice and the way in which the licensed Registered Nurse Practitioner is to be utilized, and such other information as the Board may require. The physician's notice shall also list the names of any and all physicians to whom the licensed Registered Nurse Practitioner shall be responsible in the absence of the employing or supervising physician.

- (b) The notice shall also include a statement of the educational and professional qualifications of the licensed Registered Nurse Practitioner, including the related experience possessed by the licensed Registered Nurse Practitioner, and such other information as the Board may require.
2. Upon termination of the employment or supervising relationship of a licensed Registered Nurse Practitioner by a physician licensed to practice medicine in the State of Arkansas, notice shall be given by the physician to the Arkansas State Medical Board upon forms provided by it for this purpose.
3. No physician licensed to practice medicine in the State of Arkansas shall employ or supervise or utilize more than two (2) licensed Registered Nurse Practitioners at any one time; nor shall such physician assume responsibility for collaborating with or directing the activities of more than two (2) licensed Registered Nurse Practitioners at any one time.
4. Exemption from the restrictions of the provisions of paragraph (3) hereof may be granted by the Board, after hearing, upon the application of the physician, in any instance in which enforcement of these restrictions would cause undue hardship. Any exemption so granted may be made subject to whatever terms and conditions the Board deems necessary to protect the public health, safety and welfare.
5. The work of the Registered Nurse Practitioner shall be done under the supervision of a physician who retains responsibility for patient care, although the physician need not be physically present at each activity of the Registered Nurse Practitioner nor be specifically consulted before each delegated task is performed. The Registered Nurse Practitioner may be involved with the patients of the physician in any medical setting within the established scope of the physician's practice, not prohibited by law. The Registered Nurse Practitioner's service may be utilized in all medical care settings, including the office, the ambulatory clinic, the hospital if approved by the hospital medical staff and Board of Directors of the hospital, the patient's home, extended care facilities, and nursing homes. Diagnostic and therapeutic procedures common to the physician's practice may be assigned after demonstration of proficiency and competency is made by the Registered Nurse Practitioner.
6. A physician must insure that the Registered Nurse Practitioner:
  - (a) Clearly identifies himself to the public and the patient as a Registered Nurse Practitioner to a physician by the display of an appropriate designation, i.e., badge, nameplate, with "Registered Nurse Practitioner" appearing thereon.
  - (b) Functions only under the direction of a licensed physician.
7. The supervising physician shall authorize and/or sign all prescriptions.
8. Violation of this Regulation shall constitute "malpractice" within the meaning of the Arkansas State Medical Practices Act and shall subject the violator to all penalties provided therein.

# REGULATION NO. 16

## PHYSICIANS, HIV AND HBV

Arkansas Code S17-93-409 (7) and (10) 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. 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.
5. Body fluids means amniotic, pericardial, peritoneal, pleural, synovial and cerebrospinal fluids, semen, vaginal secretions and other body fluids, secretions and excretions containing visible blood.
6. 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.
7. 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.
8. Practitioner means physician, <sup>a</sup>physician's trained assistant, ~~(or other employee of the physician)~~ who performs or participates in an invasive procedure or functions ancillary to invasive procedures.

### GENERAL REQUIREMENTS:

9. 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 or HIV from a practitioner to a patient, from a patient to a practitioner, or from a patient to a patient.
10. 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:

10. 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 needlestick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needlestick 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.
12. 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.
13. 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.
14. 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 or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure except as provided in this Rule or Regulation.
15. 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, 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 has been affirmatively disclosed to each practitioner or other health care personnel who participates or assists in the exposure-prone procedure.

#### REVOCATION OF CONSENT:

- 16. 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:

- 17. Reports and information furnished to the Arkansas State Medical Board relative to the HBeAg 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.
- 18. 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.
- 19. 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.
- 20. 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 possible sanctioning of his license.