

A.C.A. § 17-87-101

Current through all legislation of the 2024 Fiscal Session and the Second Extraordinary Session (2024)

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17-87-101. License required — Purpose.

(a) In order to safeguard life and health, a person practicing or offering to practice nursing for compensation shall be required to submit evidence that he or she is qualified to so practice and shall be licensed as provided in this chapter:

- (1) Professional nursing;
- (2) Advanced practice registered nursing;
- (3) Registered practitioner nursing;
- (4) Practical nursing; or
- (5) Psychiatric technician nursing.

(b) It is unlawful for any person not licensed by the Arkansas State Board of Nursing:

- (1) To practice or offer to practice professional nursing, advanced practice registered nursing, registered practitioner nursing, practical nursing, or psychiatric technician nursing; or
- (2) To use any sign, card, or device to indicate that the person is a professional registered nurse, an advanced practice registered nurse, a registered nurse practitioner, a licensed practical nurse, or a licensed psychiatric technician nurse.

History

Acts 1971, No. 432, § 1; 1979, No. 613, § 1; 1980 (1st Ex. Sess.), No. 14, § 1; A.S.A. 1947, § 72-745; Acts 1995, No. 409, § 1; 2013, No. 604, § 1.

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17-87-102. Definitions.

As used in this chapter:

- (1) “Board” means the Arkansas State Board of Nursing;
- (2) “Collaborative practice agreement” means a written plan that identifies a physician who agrees to collaborate with an advanced practice registered nurse in the joint management of the health care of the advanced practice registered nurse's patients and that outlines procedures for consultation with or referral to the collaborating physician or other healthcare professional as indicated by a patient's healthcare needs;
- (3) “Consulting physician” means a physician licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., with obstetrical privileges in a hospital, who has agreed to practice in consultation with a certified nurse midwife;
- (4)
 - (A) “Practice of advanced practice registered nursing” means the delivery of healthcare services for compensation by a professional nurse who has gained additional knowledge and skills through successful completion of an organized program of nursing education that certifies nurses for advanced practice roles as certified nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, and clinical nurse specialists.
 - (B) “Practice of advanced practice registered nursing” includes the practice of nursing as a:
 - (i) Certified nurse practitioner;
 - (ii) Certified registered nurse anesthetist;
 - (iii) Certified nurse midwife; and
 - (iv) Clinical nurse specialist;
- (5) “Practice of certified nurse midwifery” means the performance for compensation of advanced nursing practices by a certified nurse midwife that are relevant to the management of women's health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, family planning, and gynecological needs of women within a healthcare system that provides for consultation, collaborative management, or referral as indicated by the health status of the client;
- (6) “Practice of certified nurse practitioner nursing” means the performance for compensation of advanced nursing practices by a registered nurse who, as demonstrated by national certification, has advanced knowledge and practice skills in the delivery of nursing services;
- (7)
 - (A) “Practice of certified registered nurse anesthesia” means the performance for compensation of advanced nursing practices by a certified registered nurse anesthetist that are relevant to the administration of anesthetics in consultation with, but not necessarily in the presence of, a licensed physician, licensed dentist, or other person lawfully entitled to order anesthesia.

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(B)

- (i)** A certified registered nurse anesthetist may order nurses, within his or her scope of practice, to administer drugs preoperatively and postoperatively in connection with an anesthetic or other operative or invasive procedure, or both, that will be or has been provided.
- (ii)** A certified registered nurse anesthetist may select, obtain, and administer Schedule II drugs only during the perioperative, peri-obstetrical, and medical procedure period.

(C) As used in this subdivision (7):**(i)**

- (a)** "Consultation" means the manner and process utilized between a certified registered nurse anesthetist and a licensed physician, licensed dentist, or other person lawfully entitled to order anesthesia performing the procedure or directly involved with the procedure when working jointly toward a common goal of providing services for the patient.

(b)

In consultation, the consulting party shall remain immediately available for consultation during the delivery of anesthesia for diagnosis, consultation, and treatment of medical conditions.

(c)

The hospital's administrative staff, medical staff, and governing body shall determine the guidelines on "immediately available for consultation";

- (ii)** "Medical procedure" means a course of action intended to achieve a result in the delivery of health care as consulted by a licensed physician, licensed dentist, or other person lawfully entitled to order anesthesia;
- (iii)** "Peri-obstetrical" means preanesthetic preparation or evaluation, anesthesia induction, maintenance or emergence, or postanesthesia care of the pregnant female; and
- (iv)** "Perioperative" means preanesthetic preparation or evaluation, anesthesia induction, maintenance or emergence, or postanesthesia care of clients.

(D) For purposes of this subdivision (7), a licensed physician, licensed dentist, or other person lawfully entitled to order anesthesia is not liable for any act or omission of a certified registered nurse anesthetist who orders or administers anesthetics;

(8) "Practice of clinical nurse specialist nursing" means the performance for compensation of advanced nursing practices by a registered nurse who, through study and supervised practice at the graduate level and as evidenced by national certification, has advanced knowledge and practice skills in a specialized area of nursing practice;

(9) "Practice of licensed practical nursing" means the performance for compensation of nursing practices by a licensed practical nurse that are relevant to the care of the ill, injured, or infirm, or the delegation of certain nursing practices to other personnel as set forth in rules established by the board, under the direction of a registered nurse, an advanced practice registered nurse, a licensed physician, or a licensed dentist that do not require the substantial specialized skill, judgment, and knowledge required in professional nursing;

(10) "Practice of professional nursing" means the performance by a registered nurse or an advanced practice registered nurse for compensation of any acts involving:

- (A)** The observation, care, and counsel of the ill, injured, or infirm;
- (B)** The maintenance of health or prevention of illness of others;
- (C)** The supervision and teaching of other personnel;

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(D) The delegation of certain nursing practices to other personnel as set forth in rules established by the board; or

(E) The administration of medications and treatments as prescribed by practitioners authorized to prescribe and treat in accordance with state law when such acts require substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical, and social sciences;

(11) “Practice of psychiatric technician nursing” means the performance for compensation of nursing practices by a licensed psychiatric technician nurse that are relevant to the care of the physically and mentally impaired, injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in rules established by the board, and the carrying out of medical orders under the direction of a professional registered nurse, an advanced practice registered nurse, a licensed physician, or a licensed dentist, when such activities do not require the substantial specialized skill, judgment, and knowledge required in professional nursing; and

(12)

(A) “Practice of registered nurse practitioner nursing” means the performance for compensation of nursing practices by a registered nurse practitioner that are relevant to the delivery of healthcare services in collaboration with and under the direction of a licensed physician or under the direction of protocols developed with a licensed physician.

(B) A registered nurse practitioner is authorized to engage in nursing practices as recognized by the nursing profession and as authorized by the board.

History

Acts 1971, No. 432, § 2; 1979, No. 404, §§ 1, 7; 1979, No. 613, § 2; A.S.A. 1947, § 72-746; Acts 1995, No. 409, § 2; 1997, No. 1065, § 1; 1999, No. 1208, § 1; 2013, No. 604, § 2; 2015, No. 1156, § 14; 2019, No. 315, §§1537-1539; 2021, No. 449, § 1.

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17-87-103. Exceptions — Definitions.

This chapter does not prohibit:

- (1) The furnishing of nursing assistance in an emergency;
- (2) The practice of nursing that is incidental to their program of study by students enrolled in nursing education programs approved by the Arkansas State Board of Nursing;
- (3) The practice of any legally qualified nurse of another state who is employed by the United States Government or any bureau, division, or agency while in the discharge of his or her official duties in installations where jurisdiction has been ceded by the State of Arkansas;
- (4) The practice of any legally qualified and licensed nurse of another state, territory, or foreign country whose responsibilities include transporting patients into, out of, or through this state while actively engaged in patient transport that does not exceed forty-eight (48) hours in this state;
- (5) Nursing or care of the sick when done in connection with the practice of the religious tenets of any church by its adherents;
- (6) The care of the sick when done in accordance with the practice of religious principles or tenets of any well-recognized church or denomination that relies upon prayer or spiritual means of healing;
- (7) The administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, dentist, or other person lawfully entitled to order anesthesia by a graduate nurse anesthetist awaiting certification results while holding a temporary permit;
- (8) The administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, dentist, or other person lawfully entitled to order anesthesia by a registered nurse who is enrolled as a bona fide student pursuing a course in a nurse anesthesia school that is approved by a nationally recognized accrediting body and whose graduates are acceptable for certification by a nationally recognized certifying body, provided the giving or administering of the anesthetics is confined to the educational requirements of the course and under the direct supervision of a qualified instructor;
- (9) Hospital-employed professional paramedics from administering medication for diagnostic procedures under the direction of a physician;
- (10) The prescription and administration of drugs, medicines, or therapeutic devices in the presence of and under the supervision of an advanced practice registered nurse holding a certificate of prescriptive authority, a licensed physician, or licensed dentist by a registered nurse who is enrolled as a student in an advanced pharmacology course, provided the prescription or administration of drugs or medicines, or both, is confined to the educational requirements of the course and under the direct supervision of a qualified instructor;
- (11)
 - (A) The administration of glucagon or insulin, or both, to a student who is diagnosed with diabetes by trained volunteer school personnel designated as care providers in a health plan that covers diabetes management and is based on the orders of a treating physician, who have been trained

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by a licensed registered nurse employed by a school district or other healthcare professional to administer glucagon or insulin, or both, to a child with diabetes in an emergency situation.

(B)

(i) A licensed registered nurse employed by a school district or other healthcare professional shall annually train volunteer school personnel designated as care providers in a health plan of a student submitted under subdivision (11)(A) of this section to administer glucagon or insulin, or both, to a student with diabetes.

(ii) If a parent or guardian of a student with diabetes chooses to have care provided by a care provider, the parent or guardian of a student with diabetes shall sign an authorization to allow the administration of glucagon or insulin, or both, to the student by volunteer school personnel designated as care providers who shall be incorporated into the health plan of a student submitted under subdivision (11)(A) of this section.

(iii) The school district shall maintain a copy of the health plan provided under subdivision (11)(A) of this section, a list of volunteer school personnel who are designated as care providers and trained to administer glucagon or insulin, or both, and a copy of the parent's or guardian's signed authorization.

(C)

(i) A school district shall strive to achieve the following staffing ratios for students with diabetes at each public school, at least:

(a)

One (1) care provider for a public school with one (1) full-time licensed registered nurse; and

(b)

Three (3) care providers for a public school without one (1) full-time licensed registered nurse.

(ii) The school district may recruit and identify public school personnel to serve as care providers to administer glucagon or insulin, or both, when a licensed registered nurse is not available.

(iii) A school district shall not require or pressure a parent or guardian of a student with diabetes to provide diabetes care at school or a school-related activity.

(D) A school district, school district employee, or an agent of a school district, including a healthcare professional who trained volunteer school personnel designated as care providers and a care provider, shall not be liable for any damages resulting from his or her actions or inactions under this section.

(E) The Arkansas State Board of Nursing and the State Board of Education shall promulgate rules necessary to administer this subdivision (11);

(12)

(A) Health maintenance activities by a designated care aide for a:

(i) Competent adult at the direction of the adult; or

(ii) Minor child or incompetent adult at the direction of a caretaker.

(B) As used in this section:

(i) "Caretaker" means a person who is:

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- (a) Directly and personally involved in providing care for a minor child or incompetent adult;
 - (b) The parent, foster parent, family member, friend, or legal guardian of the minor child or incompetent adult receiving care under subdivision (12)(B)(i)(a) of this section;
- (ii) “Competent adult” means an individual who:
- (a) Is eighteen (18) years of age or older; and
 - (b) Has the capability and capacity to make an informed decision; and
- (iii) “Health maintenance activities” means activities that:
- (a) Enable a minor child or adult to live in his or her home; and
 - (b) Are beyond activities of daily living that:
 - (1) The minor child or adult is unable to perform for himself or herself; and
 - (2) The attending physician, advanced practice registered nurse, or registered nurse determines can be safely performed in the minor child's or adult's home by a designated care aide under the direction of a competent adult or caretaker.
- (C) As used in this section, “home” does not include:
- (i) A nursing home;
 - (ii) An assisted living facility;
 - (iii) A residential care facility;
 - (iv) An intermediate care facility; or
 - (v) A hospice care facility.
- (D) The Arkansas State Board of Nursing, with the input of the Arkansas Health Care Association and the Arkansas Residential Assisted Living Association, Inc., shall promulgate rules specifying which health maintenance activities are not exempted under this subdivision (12) and the minimal qualifications required of the designated care aide;
- (13) The practice of nursing through a program in partnership with federal Innovative Readiness Training if the nurse has obtained a license to practice from another state, commonwealth, territory, or the District of Columbia;
- (14)
- (A) The drawing and measuring of glucagon or insulin, or both, by a trained employee of a city or county detention center for a person who:
 - (i) Is currently incarcerated or otherwise in custody of the city or county detention center; and
 - (ii) Has a confirmed diagnosis of diabetes.
 - (B) The drawing and measuring of glucagon or insulin shall be based on the orders of a treating licensed medical professional with prescribing privileges, and the employee of the county jail or detention center shall be trained in accordance with subdivision (14)(C) of this section.

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(C) A licensed registered nurse or other healthcare professional who is an employee or independent contractor of the city or county detention center shall annually train employees designated by the city or county detention center as employees who may draw or measure glucagon or insulin in accordance with this subdivision (14); or

(15)

(A) The administration of an emergency dose medication to a public school student who is diagnosed with an adrenal insufficiency by volunteer public school personnel if the public school personnel are trained to administer an emergency dose medication using the appropriate delivery equipment when a public school nurse is unavailable.

(B) The administration of an emergency dose medication to a public school student with an adrenal insufficiency by trained public school personnel at school, on school grounds, or at a school-related activity may be permitted with the authorization of the parent, legal guardian, or person standing in loco parentis of the public school student if the public school student's parent, legal guardian, or person standing in loco parentis provides written authorization for trained public school personnel to administer an emergency dose medication while the public school student is at public school, an on-site school-related activity, or an off-site school-sponsored activity.

(C) The written authorization provided under subdivision (15)(B) of this section shall be:

(i) Valid only for the duration of the school year for which it is provided; and

(ii) Renewed:

(a) For each subsequent school year for which the parent, legal guardian, or person standing in loco parentis intends to authorize trained public school personnel to administer an emergency dose medication to his or her child; and

(b) If the public school student transfers to another public school in this state.

(D) A parent, legal guardian, or person standing in loco parentis who provides written authorization under subdivision (15)(B) of this section shall:

(i) Include with his or her written authorization written orders from his or her public school student's treating physician that the public school student requires the administration of an emergency dose medication under certain conditions; and

(ii) Sign an individualized healthcare plan developed by the school nurse for the public school in which his or her child with an adrenal insufficiency is enrolled that outlines the plan of care for his or her child and includes without limitation a description of the required care following the administration of an emergency dose medication while the public school student is at school, an on-site school-related activity, or an off-site school-sponsored activity.

(E) A parent, legal guardian, or person standing in loco parentis who provides written authorization for the administration by trained public school personnel of an emergency dose medication to his or her child shall sign a statement:

(i) Acknowledging the public school district is not liable as a result of any injury arising from the administration of an emergency dose medication by trained public school personnel; and

(ii) Indemnifying and holding harmless the public school employees and public school district in which his or her child is enrolled against any claims arising as a result of the administration of an emergency dose medication by trained public school personnel.

(F) Education and training on the treatment of adrenal insufficiency and adrenal crisis shall be conducted annually to public school personnel who volunteer to administer an emergency dose

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medication by the school nurse for the public school at which the public school personnel are employed and shall include without limitation:

- (i) General information about adrenal insufficiency and the associated triggers;
 - (ii) Recognition of signs and symptoms of a public school student experiencing an adrenal crisis;
 - (iii) The types of medications for treating adrenal insufficiency and adrenal crisis; and
 - (iv) The proper administration of medication used to treat an adrenal crisis.
- (G) The Division of Elementary and Secondary Education shall develop guidance and education for school nurses to train volunteer public school personnel as required under this subdivision (15).
- (H) The division shall, in coordination with the Arkansas State Board of Nursing, promulgate rules necessary to implement this subdivision (15).
- (I) As used in this subdivision (15):
- (i) "Adrenal crisis" means a sudden, severe worsening of symptoms associated with adrenal insufficiency, which can lead to circulatory collapse, heart and organ failure, brain damage, and death;
 - (ii)
 - (a) "Adrenal insufficiency" means a chronic medical condition in which the adrenal glands do not produce enough of the necessary hormones to respond to stressors such as illness and injury.
 - (b) The hormones involved help maintain and regulate key functions of the body such as blood pressure, metabolism, the immune system, and how the body responds to stress; and
 - (iii) "Emergency dose medication" means intramuscular hydrocortisone sodium succinate.

History

Acts 1971, No. 432, §§ 1, 2, 17; 1979, No. 404, §§ 1, 7; 1979, No. 613, §§ 1, 2; 1980 (1st Ex. Sess.), No. 14, §§ 1, 3; 1985, No. 189, § 2; A.S.A. 1947, §§ 72-745, 72-746, 72-761; *Acts 1995, No. 409, § 3; 1997, No. 1065, § 2; 2005, No. 1440, § 1; 2011, No. 1204, § 1; 2013, No. 604, §§ 3, 4; 2013, No. 1232, § 1; 2015, No. 833, § 2; 2017, No. 205, § 4; 2017, No. 540, § 28; 2021, No. 439, § 1; 2021, No. 1050, § 2.*

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17-87-104. Penalty.

(a)

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

(A) Sell or fraudulently obtain or furnish any nursing diploma, license, renewal, or record, or aid or abet therein;

(B) Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(C) Practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, practical nursing, or psychiatric technician nursing as defined by this chapter unless licensed by the Arkansas State Board of Nursing to do so;

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

(i) Nurse;

(ii) Registered nurse or R.N.;

(iii) Advanced practice nurse, advanced practice registered nurse, A.P.N., or A.P.R.N., or any of the following:

(a) Advanced registered nurse practitioner, certified nurse practitioner, A.R.N.P., A.N.P., or C.N.P.;

(b) Nurse anesthetist, certified nurse anesthetist, certified registered nurse anesthetist, or C.R.N.A.;

(c) Nurse midwife, certified nurse midwife, licensed nurse midwife, C.N.M., or L.N.M.;
or

(d) Clinical nurse specialist or C.N.S.;

(iv) Registered nurse practitioner, N.P., or R.N.P.;

(v) Licensed practical nurse, practical nurse, or L.P.N.;

(vi) Licensed psychiatric technician nurse, psychiatric technician nurse, L.P.T.N., or P.T.N.; or

(vii) Any other name, title, or initials that would cause a reasonable person to believe the user is licensed under this chapter;

(E) Practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, practical nursing, or psychiatric technician nursing during the time his or her license shall be suspended;

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(F) Conduct a nursing education program for the preparation of professional nurses, advanced practice registered nurses, nurse practitioners, practical nurses, or psychiatric technician nurses unless the program has been approved by the board;

(G) Prescribe any drug or medicine as authorized by this chapter unless certified by the board as having prescriptive authority, except that a certified registered nurse anesthetist shall not be required to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicines necessary for the care; or

(H) Otherwise violate any provisions of this chapter.

(2) Such misdemeanor shall be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500). Each subsequent offense shall be punishable by fine or by imprisonment of not more than thirty (30) days, or by both fine and imprisonment.

(b)

(1) After providing notice and a hearing, the board may levy civil penalties in an amount not to exceed one thousand dollars (\$1,000) for each violation against those individuals or entities found to be in violation of this chapter or rules promulgated thereunder.

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

(3) These penalties shall be in addition to other penalties which may be imposed by the board pursuant to this chapter.

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

History

Acts 1971, No. 432, § 18; 1980 (1st Ex. Sess.), No. 14, § 4; A.S.A. 1947, § 72-762; Acts 1995, No. 409, § 4; 2013, No. 604, §§ 5, 6; 2019, No. 315, § 1540.

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17-87-105. Injunction.

- (a) The Pulaski County Circuit Court is vested with jurisdiction and power to enjoin the unlawful practice of nursing in any county of the State of Arkansas in a proceeding by the Arkansas State Board of Nursing or by any member thereof or by any citizen in this state.
- (b) The issuance of any injunction shall not relieve a person from criminal prosecution for violation of the provisions of this chapter. The remedy of injunction is to be in addition to liability for criminal prosecution.

History

Acts 1971, No. 432, § 19; A.S.A. 1947, § 72-763.

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17-87-106. Construction of chapter.

Nothing in this chapter relating to the practice of advanced practice nursing shall be construed to limit or alter the scope of practice of any registered nurse practitioner or any other licensed nurse.

History

Acts 1995, No. 409, § 21.

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