

SUBCHAPTER 7 – MEDICATION ASSISTIVE PERSONS

SECTION.

- 17-87-701. Definitions
- 17-87-702. Certificate required.
- 17-87-703. Designated facilities.
- 17-87-704. Qualifications.
- 17-87-705. Scope of work.
- 17-87-706. Renewal of certifications.

SECTION.

- 17-87-707. Disciplinary actions.
- 17-87-708. Penalty.
- 17-87-709. Injunction.
- 17-87-710. Medication Assistive Person Advisory Committee.
- 17-87-711. Applicability of subchapter.

17-87-701. Definitions.

As used in this subchapter:

- (1) “Board” means the Arkansas State Board of Nursing;
- (2) “Designated facility” means a type of facility determined by the Board as an environment in which medication assistive persons may serve in accordance with the requirements of this subchapter and regulations promulgated by the Board;
- (3) “Medication assistive person” means a person who is certified by the Board to administer certain nonprescription and legend drugs in designated facilities; and
- (4) “Supervision” means the active oversight of patient care services while on the premises of a designated facility in a manner defined by the Board.

17-87-702. Certificate required.

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

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

17-87-703. Designated facilities.

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

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

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

17-87-704. Qualifications.

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

- (1) (A) Is currently listed in good standing on the state’s certified nurse aide registry;
- (B) Has maintained registration on the state’s certified nurse aide registry continuously for a minimum of one (1) year;
- (C) Has completed at least one (1) continuous year of full-time experience as a certified nurse aide in this state;
- (D) Is currently employed at a designated facility;
- (E) Has a high school diploma or the equivalent;
- (F) Has successfully completed a literacy and reading comprehension screening process approved by the Board;
- (G) Has successfully completed a medication assistive person training course of not less than one hundred (100) hours approved by the Board; and

NURSE PRACTICE ACT

- (H) Has successfully passed an examination on subjects the Board determines; or
- (2)(A) Has completed a portion of a nursing education program equivalent to the medication assistive person training course; and
 - (B) Passed the medication aide examination.
- (b) The Board may issue a certification as a medication assistive person by endorsement to an applicant who has been licensed or certified as a medication assistive person under the laws of another state or territory, if:
 - (1) In the opinion of the Board, the applicant meets the qualifications of medication assistive persons in this state; and
 - (2) The Board recommends certification.
- (c) Any person holding a certification as a medication assistive person shall have the right to use the title “medication assistive person” and the abbreviation “M.A.P.”.

17-87-705. Scope of work.

- (a) (1) A medication assistive person may perform the delegated nursing function of medication administration and related tasks in accordance with rules promulgated by the Arkansas State Board of Nursing.
- (2) A medication assistive person shall perform medication administration and related tasks only:
 - (A) At a designated facility; and
 - (B) Under the supervision of a licensed nurse.
- (3)(A) Medication administration shall be limited to the administration of nonprescription and legend drugs ordered by an authorized prescriber by the following methods:
 - (i) Orally;
 - (ii) Topically;
 - (iii) Drops for eye, ear, or nose;
 - (iv) Vaginally;
 - (v) Rectally;
 - (vi) Transdermally; and
 - (vii) Via oral inhaler.
- (B) Medication administration by a medication assistive person shall not include controlled substances.
- (b) A medication assistive person shall not:
 - (1) Receive, have access to, or administer any controlled substance;
 - (2) Administer parenteral, enteral, or injectable medications;
 - (3) Administer any substances by nasogastric or gastrostomy tubes;
 - (4) Calculate drug dosages;
 - (5) Destroy medication;
 - (6) Receive orders, either in writing or verbally, for new or changed medications;
 - (7) Transcribe orders from the medical record;
 - (8) Order initial medications;
 - (9) Evaluate medication error reports;
 - (10) Perform treatments;
 - (11) Conduct patient assessments or evaluations; or
 - (12) Engage in patient teaching activities.

17-87-706. Renewal of certifications.

- (a)(1) The Arkansas State Board of Nursing shall prescribe the procedure for the cyclical renewal of medication assistive person certifications.
- (2) In each case, the Board shall mail a notification for renewal to the medication assistive person at least thirty (30) days before the expiration date of the certification.
- (b)(1) Upon receipt of the renewal application and the fee, the Board shall verify the accuracy of the application.
- (2)(A) If the Board finds the application to be accurate, the Board shall issue a certificate of renewal to the applicant.

NURSE PRACTICE ACT

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

- (i) Currently listed in good standing on the state's certified nurse aide registry; and
- (ii) Required to satisfactorily complete at least eight (8) hours of continuing medication

education course work as required by the Board.

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

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

- (1) Payment of the renewal fee plus a penalty; and
- (2) Submission of evidence that the person currently meets the requirements to serve as a

medication assistive person.

(e) Any person providing services as a medication assistive person during the time his or her certification has lapsed shall be considered to be providing services illegally and shall be subject to the penalties provided for violations of this subchapter.

17-87-707. Disciplinary actions.

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

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

(A) Fraud or deceit in procuring or attempting to procure a medication assistive person

certificate;

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

(C) Committing a crime of moral turpitude;

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

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

(4) Is mentally incompetent;

(5) Is guilty of unprofessional conduct;

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

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

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

(9) Has willfully or repeatedly violated any of the provisions of this subchapter.

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

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

17-87-708. Penalty.

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

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

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

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

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

(i) Medication assistive person;

(ii) M.A.P.;

(iii) Medication aide;

(iv) Medication technician;

(v) Medication assistant;

(vi) Certified medication aide;

NURSE PRACTICE ACT

- (vii) C.M.A.;
 - (viii) Medication assistant – certified
 - (ix) MA-C; or
 - (x) Any other name, title, or initials that would cause a reasonable person to believe the user is certified under this subchapter;
- (E) Serve as a medication assistive person during the time his or her certification is suspended;
 - (F) Conduct an education program for the preparation of medication assistive persons unless the program has been approved by the Board; or
 - (G) Otherwise violate any provisions of this subchapter.
- (2)(A) A misdemeanor under subdivision (a)(1) of this section shall be punishable by a fine of not less than twenty-five dollars (\$25.00) or more than five hundred dollars (\$500).
- (B) Each subsequent offense shall be punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment of not more than thirty (30) days, or by both a 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) against a person or entity for each violation of this subchapter or regulations promulgated under this subchapter.
- (2) Each day of violation shall be a separate offense.
- (c) Unless a penalty assessed under this section is paid within fifteen (15) calendar days following the date for an appeal from the order, the Board may file suit in Pulaski County Circuit Court to obtain a judgment for the amount of penalty not paid.
- (d) The penalties permitted in this section shall be in addition to other penalties that may be imposed by the Board under this chapter.

17-87-709. Injunction.

- (a) The Pulaski County Circuit Court is vested with jurisdiction and power to enjoin the unlawful provision of medication assistive person services in any county of the State of Arkansas in a proceeding initiated by the Arkansas State Board of Nursing, any member of the Board, or any citizen in this state.
- (b)(1) The issuance of an injunction shall not relieve a person from criminal prosecution for violation of the provisions of this subchapter.
- (2) The remedy of injunction is to be in addition to liability for criminal prosecution.

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

- (a)(1) The Medication Assistive Person Advisory Committee is created as an advisory committee to the Arkansas State Board of Nursing.
- (2) The committee shall assist the Board in implementing the provisions of this subchapter regarding medication assistive persons.
- (b) The Board shall appoint six (6) members to be approved by the Governor who have the following qualifications:
- (1) Two (2) members shall be certified medication assistive persons;
 - (2) One (1) member shall be a licensed nursing home administrator who has worked in that capacity for at least five (5) years;
 - (3) One (1) member shall be a registered nurse who has been in a practice using certified nurse aides for at least five (5) years;
 - (4) One (1) member shall be a lay person representing the interest of consumers of health care services; and
 - (5) One (1) member shall be a nursing faculty member of an Arkansas nursing education program.
- (c) Members shall serve three-year terms.
- (d) The Board may remove any committee member after notice and hearing for incapacity, incompetence, neglect of duty, or malfeasance in office.
- (e) The members of the committee shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

17-87-711. Applicability of subchapter.

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