

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

Act 1954 of the Regular Session

As Engrossed: H3/7/05 H3/22/05

A Bill

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

HOUSE BILL 2431

4
5 By: Representatives Matayo, Mathis, Anderson
6
7

For An Act To Be Entitled

8
9 AN ACT TO RENAME THE ARKANSAS DEPARTMENT OF HUMAN
10 SERVICES; TO MERGE THE ARKANSAS DEPARTMENT OF
11 HEALTH INTO THE ARKANSAS DEPARTMENT OF HEALTH AND
12 *HUMAN SERVICES; TO CREATE THE DIVISION OF HEALTH*
13 *WITHIN THE ARKANSAS DEPARTMENT OF HEALTH AND*
14 *HUMAN SERVICES; AND FOR OTHER PURPOSES.*

Subtitle

15
16
17 AN ACT TO MERGE THE ARKANSAS DEPARTMENT
18 OF HEALTH INTO THE ARKANSAS DEPARTMENT
19 OF HEALTH AND HUMAN SERVICES.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Legislative purpose.

25 (a) The General Assembly declares that this act is necessary to:

26 (1) Improve the health of the citizens of Arkansas in an
27 effective and efficient manner; and

28 (2) Provide for administrative cost savings in the delivery of
29 health-related programs by combining overlapping functions and eliminating
30 duplications of functions of the Department of Health and the Department of
31 Human Services.

32 (b) It is the intent of the General Assembly to provide for an orderly
33 transfer of powers, authorities, duties, and functions of the Department of
34 Health to the Department of Human Services with a minimum of disruption of
35 governmental services and functions and with a minimum of expense.



1
2 SECTION 2. Renaming the Department of Human Services.

3 (a) Effective at 12:01 AM on July 1, 2005, the Department of Human
4 Services shall be renamed and shall be known as the Department of Health and
5 Human Services.

6 (b) The Arkansas Code Revision Commission shall replace all references
7 to "Department of Human Services" in the Arkansas Code with "Department of
8 Health and Human Services".

9
10 SECTION 3. Transfer of the Department of Health into the Department of
11 Health and Human Services.

12 (a)(1)(A) Effective at 12:01 AM on July 1, 2005, the Department of
13 Health is transferred to the Department of Health and Human Services.

14 (B) Effective at 12:01 AM on July 1, 2005, the Department
15 of Health shall be named and shall be known as the *Division of Health* of the
16 Department of Health and Human Services.

17 (2) All authority, powers, duties, and functions as established
18 by law for the Department of Health, including all purchasing, budgeting,
19 fiscal, accounting, human resources, payroll, legal, information systems,
20 maintenance, program support, administrative support, and other management
21 functions are transferred to the Department of Health and Human Services.

22 (3)(A) All records, personnel, property, unexpended balances of
23 appropriations, allocations, or other funds are transferred to the Department
24 of Health and Human Services for use by the *Division of Health* of the
25 Department of Health and Human Services.

26 (B)(i) All powers, duties, and functions, including, but
27 not limited to, rulemaking, regulation, and licensing, promulgation of rules,
28 rates, regulations and standards, and the rendering of findings, orders and
29 adjudications as established by law for the Department of Health are
30 transferred to the Director of the Department of Health and Human Services,
31 except as specified in this act.

32 (ii) All powers, duties, and functions, including,
33 but not limited to, rulemaking, regulation, and licensing, promulgation of
34 rules, rates, regulations, standards, all budgetary responsibilities, and the
35 rendering of findings, orders and adjudications as established by law for the
36 Breast Cancer Control Program or other transferred entities within the

1 Department of Health shall be retained exactly as they were prior to the
2 implementation of this act.

3 (b) Nothing in this act shall be construed to increase the authority
4 or powers of the Director of the Department of Health and Human Services or
5 the *Division of Health* of the Department of Health and Human Services beyond
6 those already conferred upon the Director of the Department of Health or the
7 Department of Health, except as specifically defined in this act.

8 (c) The Director of the Department of Health and Human Services shall
9 appoint and employ the Director of the *Division of Health* of the Department
10 of Health and Human Services.

11 (d) The Arkansas Code Revision Commission shall replace "Department of
12 Health" in the Arkansas Code with "Department of Health and Human Services."

13
14 *SECTION 4. State Board of Health.*

15 (a) Effective at 12:01 AM on July 1, 2005, the State Board of Health
16 is transferred to the Department of Health and Human Services.

17 (b) For the purposes of this act, the State Board of Health shall
18 receive administrative support from the *Division of Health of the Department*
19 of Health and Human Services but shall retain exactly the same powers,
20 authorities, duties, and functions prescribed by law as it had prior to the
21 transfer and shall have all rule- and regulation-making authority prescribed
22 by law to the Department of Health before the transfer, except as provided
23 for in this act, including, but not limited to:

24 (1) Rule making, regulation, licensing, and registration;

25 (2) The promulgation of rules, rates, regulations, and
26 standards;

27 (3) Examinations, investigations, inspections, and reviews; and

28 (4) The rendering of findings, orders, and adjudications.

29
30 *SECTION 5. Arkansas Code § 20-7-102 through 20-7-106 is amended to*
31 *read as follows:*

32 *20-7-102. Members - Appointment.*

33 *(a) The State Board of Health shall consist of ~~twenty-two (22)~~ twenty-*
34 *three (23) members, to be appointed by the Governor as follows:*

35 *(1)(A) Seven (7) members of the board shall be licensed medical*
36 *doctors of good professional standing, to be appointed by the Governor as*

1 follows:

2 (i) One (1) member shall be appointed from each of
3 the four (4) congressional districts of this state as established by § 7-2-
4 101 et seq.; and

5 (ii) Three (3) members shall be appointed from the
6 state at large from a list of not fewer than three (3) names presented for
7 each position by the Arkansas Medical Society.

8 (B) Notwithstanding the provisions of subdivision
9 (a)(1)(A) of this section, at least one (1) of the positions allocated for
10 licensed medical doctors shall be an osteopathic physician appointed from a
11 list of not fewer than three (3) names presented to the Governor by the
12 Arkansas Osteopathic Medical Association from the state at large;

13 (2) One (1) member shall be a regularly licensed, registered,
14 and practicing dentist who shall have had at least seven (7) years'
15 experience in the practice of his profession in this state. This member
16 shall be appointed from a list of not fewer than three (3) names presented by
17 the Arkansas State Dental Association;

18 (3) One (1) member shall be a registered professional engineer
19 who shall have had at least seven (7) years' experience in the practice of
20 his profession in this state. This member shall be appointed from a list of
21 not fewer than three (3) names presented by the Arkansas Society of
22 Professional Engineers;

23 (4) One (1) member shall be a regularly licensed professional
24 nurse who shall have been a resident of the state for at least seven (7)
25 years preceding the appointment and who shall have at least a bachelor's
26 degree and at least five (5) years' nursing experience in the state. This
27 member shall be appointed from a list of not more than three (3) names
28 presented by the Arkansas State Nurses Association;

29 (5) One (1) member shall be a regularly licensed pharmacist who
30 shall have been actively engaged in the practice of pharmacy for at least
31 seven (7) years preceding his appointment. This member shall be appointed
32 from a list of not fewer than three (3) names presented by the Arkansas
33 Pharmacists Association;

34 (6) One (1) member shall be a regularly licensed veterinarian
35 who shall have been actively engaged in the practice of veterinary medicine
36 for at least seven (7) years preceding his appointment. This member shall be

1 appointed from a list of not fewer than three (3) names presented by the
2 Arkansas Veterinary Medical Association;

3 (7) One (1) member shall be a registered sanitarian who shall
4 have had at least seven (7) years' experience in the practice of his
5 profession preceding his appointment. This member shall be appointed from a
6 list of not fewer than three (3) names presented by the Arkansas State Board
7 of Sanitarians;

8 (8) One (1) member shall be a hospital administrator who shall
9 have had at least seven (7) years' experience in the practice of his
10 profession in Arkansas. This member shall be appointed from a list of not
11 fewer than three (3) names presented by the Arkansas Hospital Association;

12 (9) One (1) member shall be a regularly licensed, registered,
13 and practicing optometrist who shall have had at least seven (7) years'
14 experience in the practice of his profession in this state. This member shall
15 be appointed from a list of not fewer than three (3) names presented by the
16 Arkansas Optometric Association;

17 (10) One (1) member shall be a regularly licensed and practicing
18 chiropractor. This member shall be appointed from a list of not fewer than
19 three (3) names submitted by the Arkansas Chiropractic Association or the
20 Arkansas Chiropractic Society;

21 (11) One (1) member shall be a restaurant operator who has owned
22 or operated a restaurant for a minimum of five (5) years. This member shall
23 be appointed by the Governor from a list of three (3) names submitted by the
24 Arkansas Hospitality Association;

25 (12) One (1) member shall be a consumer representative who has
26 an interest in public health. This member shall be appointed by the Governor
27 from the state at large;

28 (13) One (1) member shall be over sixty (60) years old and
29 represent the elderly. This person shall not be actively engaged in or
30 retired from any occupation, profession, or industry to be regulated by the
31 board. The member shall be appointed by the Governor from the state at large
32 and be subject to confirmation by the Senate;

33 (14) One (1) member shall be a licensed doctor of podiatric
34 medicine of good professional standing who shall have had at least seven (7)
35 years' experience in the practice of the profession in this state. The member
36 shall be appointed from a list of not fewer than three (3) names presented by

1 the Arkansas Podiatric Medical Association;

2 (15) One (1) member shall be a member of the Arkansas Public
3 Health Association. The member shall be appointed by the Governor from a
4 list of three (3) names submitted by the Arkansas Public Health Association;
5 ~~and~~

6 (16) One (1) member shall be a licensed medical doctor of good
7 professional standing who shall be appointed from a rural county in the state
8 which contains a medically underserved population; ~~and~~

9 (17) One (1) member shall be the Director of the Department of
10 Health and Human Services or his or her designee.

11 (b) Each of the members of the board so appointed shall take the oath
12 prescribed by the Constitution for the state officers and shall be
13 commissioned by the Governor in the same manner as other state officials.
14

15 20-7-103. Members - Officers.

16 (a) *The members of the State Board of Health shall elect one (1) of*
17 *the members as president, except that the Director of the Department of*
18 *Health and Human Services or his or her designee shall not serve as the*
19 *president of the State Board of Health.*

20 ~~(b)(1) With the approval of the Governor, the members shall also elect~~
21 ~~a secretary who may or may not be a member of the board and who, if not a~~
22 ~~member of the board, shall be a graduate of a legally constituted and~~
23 ~~reputable medical college, shall be of good professional standing, and shall~~
24 ~~have all the powers of the members of the board.~~

25 ~~(2) The secretary shall be known as the Director of the~~
26 ~~Department of Health and shall be the executive officer of the board and~~
27 ~~perform such duties as may be required of him by the board or by this~~
28 ~~subchapter.~~

29 ~~(3) He shall be elected for a term of four (4) years.~~

30 (b)(1) With approval of the board, the Governor shall appoint a Chief
31 Health Officer for the State of Arkansas who shall not be a current sitting
32 member of the board and who shall:

33 (A) Be a graduate of a legally constituted and reputable
34 medical college;

35 (B) Be of good standing; and

36 (C) Have all the powers of the members of the board.

1 (2) The Chief Health Officer for the State of Arkansas shall
2 also be known as the Secretary for the State Board of Health and shall
3 perform such duties as may be required of him or her by the board or by this
4 subchapter, including, but not limited to, the following:

5 (A) Serve as the public representative for the State Board
6 of Health;

7 (B) Serve as the board's representative on various other
8 state and private boards and commissions as required by the board or in
9 provisions of the Arkansas Code;

10 (C) Represent the board by providing health information
11 and assist the division in providing risk factor assessments in regard to
12 improving quality of health issues at public events; and

13 (D) Assist the board and the division in:

14 (i) The creation of various health oriented outreach
15 campaigns utilizing print, radio, and television public service
16 announcements, advertisements, posters, and other materials;

17 (ii) Targeting population segments at risk for
18 various health issues;

19 (iii) Providing reliable information on various
20 health issues to policy makers;

21 (iv) Distributing information through county health
22 departments, schools, area agencies on aging, employer wellness programs,
23 physicians, hospitals and health maintenance organizations, women's groups,
24 nonprofit organizations, and community-based organizations;

25 (v) Any other strategy for raising public awareness
26 about health issues that are consistent with the provisions of this
27 subchapter;

28 (vi) Identifying and obtaining educational materials
29 for the professional health care providers that translate the latest
30 scientific and medical information on various health issues into clinical
31 applications;

32 (vii) Raising awareness among professional health
33 care providers as to the importance of prevention, early detection,
34 treatment, and rehabilitation practices, techniques, and reporting measures
35 related to various health issues; and

36 (viii) Developing and conducting workshops and

1 seminars for in-depth professional development in the field of the care and
2 management related to various health issues.

3
4 20-7-104. Members - Compensation.

5 *All appointed members of the State Board of Health may receive expense*
6 *reimbursement and stipends in accordance with § 25-16-901 et seq.*

7
8 20-7-105. Proceedings.

9 (a) The *State Board of Health* shall meet at least one (1) time every
10 three (3) months and, upon the call of the president, the Director of the
11 Department of Health and Human Services, or a majority of the members of the
12 board, shall meet at such other times as may be necessary in the interest of
13 public health.

14 (b) The board may adopt bylaws regulating the transaction of its
15 business and provide within the bylaws for the appointment of committees to
16 whom the board may delegate authority and power for all duties committed to
17 the board, but under the direction and subject to the control of the board.
18 The board may also adopt and use an official seal.

19 (c) A majority of the members of the board shall constitute a quorum
20 for the transaction of business and for the performance of such duties as the
21 board may prescribe.

22
23 20-7-106. Office.

24 The office of the *State Board of Health* shall be located in Little
25 Rock, and the board shall be furnished with all necessary equipment and
26 supplies, including laboratory supplies, books, stationery, blanks,
27 furniture, etc., as are provided other officers of the state and as are
28 necessary for carrying on the work of the board, and the office is to be
29 provided in a suitable building to be designated by the ~~Governor~~ the Director
30 of the Department of Health and Human Services.

31
32 *SECTION 6.* Arkansas Code § 20-64-1001 is amended to read as follows:

33 20-64-1001. Arkansas Drug Director.

34 (a)(1) There is created within the Office of the Governor a position
35 of Arkansas Drug Director, who shall serve at the pleasure of the Governor.

36 (2) Effective at 12:01 AM July 1, 2005, the position of Arkansas

1 Drug Director is transferred to the Division of Behavioral Health of the
2 Department of Human Services.

3 (b) The director shall serve as the coordinator for development of an
4 organizational framework to ensure that alcohol and drug programs and
5 policies are well planned and coordinated.

6 (c) The director, in cooperation with the Department of Finance and
7 Administration, shall perform financial monitoring of each drug task force of
8 the state to ensure that grant funds are being expended according to law and
9 to ensure that the drug task force's financial record system is adequate to
10 provide a clear, timely, and accurate accounting of all asset forfeitures,
11 revenues, and expenditures.

12 (d)(1) The director shall maintain an office, at a location to be
13 determined by the Director of the Division of Behavioral Health of the
14 Department of Health and Human Services, at which all records required by law
15 to be kept by the director shall be maintained.

16 (2) The director is authorized to establish and enforce rules
17 and regulations regarding the management of the Special State Assets
18 Forfeiture Fund, created in § 5-64-505, and the maintenance and inspection of
19 drug task force records concerning asset forfeitures, revenues, expenditures,
20 and grant funds.

21 (3) The director of the Division of Behavioral Health of the
22 Department of Health and Human Services is authorized to hire employees to
23 assist in these functions.

24
25 SECTION 7. Arkansas Code § 25-9-101 is amended to read as follows:

26 25-9-101. Creation – Director – Organization – Personnel.

27 (a) *There is created a ~~Department of Health~~ the Division of Health of*
28 *the Department of Health and Human Services. ~~The executive head of the~~*
29 *~~Department of Health shall be the Director of the Department of Health~~. The*
30 *executive head of the division shall be the Director of the Division Health*
31 *of the Department of Health and Human Services.*

32 (b) *The ~~department~~ Division of Health shall consist of the divisions*
33 *which existed as of July 1, 1971, within the State Board of Health, created*
34 *by § 20-7-101 et seq., and any other divisions or units which may be created*
35 *by law and placed under the ~~department~~ Division of Health.*

36 (c) The director of the division, with the advice and consent of the

1 ~~Governor~~ Director of the Department of Health and Human Services, shall
2 appoint the heads of the respective ~~divisions~~ units of the division. All
3 other personnel of the ~~department~~ division shall be employed by and shall
4 serve at the pleasure of the director of the division. Provided, nothing in
5 this section shall be so construed as to reduce any right which an employee
6 of the ~~department~~ division shall have under any civil service or merit
7 system.

8 (d) Each ~~division of the department~~ unit of the division shall be
9 under the direction, control, and supervision of the director of the
10 division. The director of the division, with the consent of the Director of
11 the Department of Health and Human Services, may delegate his or her
12 functions, powers, and duties to various ~~divisions of the department~~ units of
13 the division as he or she shall deem desirable and necessary for the
14 effective and efficient operation of the ~~department~~ division.

15 (e)(1) The ~~department~~ division shall maintain an Office of Oral
16 Health.

17 (2) The Director of the Office of Oral Health shall be an
18 experienced public health dentist licensed to practice under the Arkansas
19 Dental Practice Act, § 17-82-101 et seq.

20 (3) The Director of the Office of Oral Health shall:

21 (A) Plan, direct, and coordinate all dental public health
22 programs with other local, state, and national health programs;

23 (B) Serve as the department's chief advisor on matters
24 involving oral health; and

25 (C) Plan, implement, and evaluate all oral health programs
26 within the department.

27
28 *SECTION 8.* Arkansas Code § 25-10-101 is amended to read as follows:

29 25-10-101. Creation – Appointment of director.

30 (a) There is created a Department of Health and Human Services.

31 (b) The executive head of the department shall be the Director of the
32 Department of Health and Human Services. The director shall be appointed by
33 the Governor with the consent of the Senate and shall serve at the pleasure
34 of the Governor.

35
36 *SECTION 9.* Arkansas Code § 25-10-102 is amended to read as follows:

1 25-10-102. Organization generally.

2 (a) The Department of Health and Human Services shall consist of and
3 be operated under an integrated service system consisting of the following
4 ~~eleven (11)~~ twelve (12) divisions with responsibility and programs assigned
5 to them as determined by the Director of the Department of Health and Human
6 Services:

7 (1) A Division of Aging and Adult Services;

8 (2) A Division of Medical Services;

9 (3) A Division of Behavioral Health, which shall include
10 community mental health centers, state hospitals, and the Bureau of Alcohol
11 and Drug Abuse Prevention;

12 (4) A Division of Developmental Disabilities Services, which
13 shall include both community programs and human development centers;

14 (5) A Division of County Operations;

15 (6) A Division of Administrative Services;

16 (7) A Division of Youth Services, which shall include serious
17 offender and community-based programs and the youth service centers;

18 (8) A Division of Volunteerism;

19 (9) A Division of State Services for the Blind;

20 (10) A Division of Children and Family Services; ~~and~~

21 (11) A Division of Child Care and Early Childhood Education;

22 and

23 (12) A Division of Health.

24 (b)(1)(A) Each division of the Department of Health and Human Services
25 shall be under the direction, control, and supervision of the director.

26 (B) From time to time, the director may transfer or assign
27 existing duties or new programs or duties of the department to offices,
28 sections, or units as he or she deems necessary for the efficient and
29 necessary operation of the department.

30 (C) Prior to implementation of any reorganization, the
31 director shall obtain the advice of the House and Senate Interim Committees
32 on State Agencies and Governmental Affairs.

33 (2)(A) However, the state institutions and the operation of
34 state institutional programs under the jurisdiction of the Board of
35 Developmental Disabilities Services and the Department of Health and Human
36 Services State Institutional System Board, as provided by law, shall be under

1 the control of their respective boards.

2 (B) The boards shall perform their respective functions
3 and duties under the general guidelines and standards promulgated by the
4 director.

5 (3) The Division of State Services for the Blind and the Board
6 of the Division of State Services for the Blind shall continue to function
7 within the Department of Health and Human Services with the powers prescribed
8 in § 25-10-201 et seq.

9
10 *SECTION 10.* Arkansas Code § 25-10-401 is amended to read as follows:
11 25-10-401. Creation.

12 The state institutions of the Department of Health and Human Services,
13 known as the State Hospital for the Mentally Ill at Little Rock, the long-
14 term care facility at Benton, the George W. Jackson Mental Health Center at
15 Jonesboro, the youth services centers located at Alexander and North Little
16 Rock, and all other facilities owned and operated by the Department of Health
17 and Human Services for youth services or mental health treatment are hereby
18 consolidated to form the Department of Health and Human Services State
19 Institutional System.

20
21 *SECTION 11.* Arkansas Code § 25-10-402 is amended to read as follows:
22 25-10-402. Purpose – Guidelines.

23 (a) The Department of Health and Human Services State Institutional
24 System Board is hereby established to manage the Department of Health and
25 Human Services State Institutional System, as provided and intended by
26 Arkansas Constitution, Amendment 33.

27 (b) The board shall perform its functions and duties in accordance
28 with the general guidelines, policies, and regulations of the Department of
29 Health and Human Services governing divisions, offices, sections, or units
30 within the department with respect to budgets, personnel and personnel
31 policies, records, purchasing, bookkeeping, and other administrative
32 procedures prescribed by the Director of the Department of Health and Human
33 Services.

34
35 /s/ Matayo, et al
36

1

APPROVED: 04/11/2005