

**REPORT OF THE
ADMINISTRATIVE RULES SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

July 23, 2021

Co-Chairs:

The Administrative Rules Subcommittee met on Tuesday, July 20, 2021, at 9:00 a.m., in Room A, MAC.

- 1. The Subcommittee adopted the attached Report on the Acts of the 2021 Regular Session Requiring New Rulemaking.**
- 2. The Subcommittee adopted the attached Executive Subcommittee Report concerning an emergency rule.**
- 3. The Subcommittee reviewed and approved the following rules filed pursuant to Ark. Code Ann. § 10-3-309:**

**DEPARTMENT OF COMMERCE, OFFICE OF SKILLS
DEVELOPMENT (Ms. Stephanie Isaacs)**

- a. Secondary Career Center Rule Changes**

DEPARTMENT OF CORRECTIONS (Mr. Solomon Graves)

- a. AR 005 Reporting of Incidents**
- b. AR 014 Internal Affairs and Investigation**
- c. AR 224 Tobacco**
- d. AR 2.2 Best Practices Fund**

ARKANSAS ETHICS COMMISSION (Mr. Graham Sloan)

- a. Rules on Campaign Contribution Limit**

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL
SERVICES (Mr. Mark White, Ms. Elizabeth Pitman)**

- a. Pharmacy 1-21**
 - b. Technical Corrections – Vendor Name Removal from
Medicaid Provider Manuals**
- 4. The Subcommittee received an agency update on delinquent rulemaking
under Act 517 of 2019.**

Respectfully submitted,

Senator Kim Hammer, Co-Chair

Representative Les Eaves, Co-Chair

Administrative Rules Review Section, Bureau of Legislative Research

Report on the Acts of the 2021 Regular Session Requiring New Rulemaking

Pursuant to Act 595 of 2021



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INTRODUCTION

In accordance with Act 595 of 2021, § 1, to be codified at Ark. Code Ann. § 25-15-216(b)(3)(A), this Report on the Acts of the 2021 Regular Session Requiring New Rulemaking (“Report”) has been prepared, identifying the rules specifically required by newly enacted laws emanating from the Regular Session of 2021. Acts have been categorized as follows:

- 1. Those clearly specifying rulemaking;*
- 2. Those referencing rulemaking and including the term “necessary.” As such, the agency may have discretion as to whether a rule is necessary, although the context sometimes makes this unclear;*
- 3. Those reassigning rulemaking to a different agency or entity. It is unclear whether additional rules are necessary or the only change is the newly assigned agency; and*
- 4. Those requiring action that could fall within the scope of rulemaking. While the act does not clearly state that rules must be promulgated, the effect of the act could be interpreted to require rulemaking.*

The acts have been further categorized by the agency or entity responsible for the rulemaking. Because an act may contain multiple provisions related to rulemaking, acts may appear in more than one category, and the duplicate acts are denoted by an asterisk “” mark.*

For each act, the lead sponsor of the legislation has been indicated, and any relevant notes specific to the act have been included. Where a newly enacted law results from a regular or fiscal session of the General Assembly and does not provide a specific date for the repeal, amendment, or adoption of the rule, the final version of the new, amended, or repealed rule shall be filed for adoption with the Secretary of State on or before June 1 of the following year. See Ark. Code Ann. § 25-15-216(b)(1), as amended by Act 595, § 1. For any act that provided a specific date for the filing of final rules, that date has been noted in the Report.

Arkansas Code Annotated § 25-15-216(a) provides that, as soon as practicable after each regular session and fiscal session of the General Assembly, each agency shall review any newly enacted laws to determine whether any existing rule should be repealed or amended or any new rule should be adopted; at the conclusion of the review, the agency shall adopt a written report of the result of the review, which shall be maintained as a public record by the agency. An agency shall promulgate a rule it determines is required pursuant to its review regardless of whether the rule is contained in this Report. See Ark. Code Ann. § 25-15-216(b)(3)(C), as amended by Act 595, § 1. Pursuant to Ark. Code Ann. § 25-15-216(b)(4), as amended by Act 595, § 1, the

executive head of an agency or his or her designee shall provide monthly written updates on the agency's progress in promulgating a rule it determines is required pursuant to its review, including without limitation a rule identified in this Report, to the Legislative Council or its appropriate subcommittee until the final version of the new, amended, or repealed rule is filed for adoption with the Secretary of State on or before the required date.

SECTION I: ACTS CLEARLY SPECIFYING RULEMAKING

CABINET LEVEL DEPARTMENTS

DEPARTMENT OF AGRICULTURE

***Act 418:** This Act creates a state meat inspection program, amends the Arkansas Meat and Meat Products Inspection Act, amends the Meat and Meat Products Certification Act, creates the State Meat Inspection Program Fund, and transfers authority over meat inspection to the Department of Agriculture. The Secretary of the Department of Agriculture shall set, by rule, the inspection fee in an amount sufficient to recover the Department of Agriculture's costs of providing services as described in Ark. Code Ann. § 20-60-212(c)(1), concerning the inspection of animals, birds, or products that are not regulated under the Federal Meat Inspection Act, 21 U.S.C. § 601 et seq., as in effect on January 1, 2021. (Vaught, Rep.)

Arkansas Natural Resources Commission

***Act 605:** This Act amends the law concerning retail water providers and related service. The Arkansas Natural Resources Commission shall determine by rule the requirements of the rate study described in Ark. Code Ann. § 14-234-802, including without limitation a review of the provider's refurbishment and replacement account and asset management plan. The rate study shall use as its basis the guidelines of the American Water Works Association and the Water Environment Federation. The Commission shall further determine by rule an appropriate entity to provide guidelines for the rate study to use as its basis if guidelines of the American Water Works Association and the Water Environment Federation are unavailable. Within one (1) year of election or appointment, a majority of the members of a provider board shall receive a minimum of eight (8) hours of provider training as promulgated by rule of the Commission. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Clark, A., Sen.)

State Plant Board

Act 565: This Act amends the law regarding industrial hemp production, repeals the Arkansas Industrial Hemp Act, and establishes the Arkansas Industrial Hemp Production Act. The State Plant Board shall adopt rules to implement and administer the Arkansas Industrial Hemp Production Act. Rules adopted by the Board shall prescribe the sampling, inspection, and testing procedures to ensure that the tetrahydrocannabinol concentration of industrial hemp planted, grown, or harvested in this state is not more than the acceptable hemp tetrahydrocannabinol level as defined by federal law and provide due process for growers, including an appeals process.

The State Plant Board may also establish a procedure for annual licensure to allow persons to grow industrial hemp in the state. The rules adopted by the Board shall require the applicant to include, at a minimum, the following information on the form provided by the Department of Agriculture: the name and mailing address of the applicant; the legal description and global positioning coordinates of the production fields to be used to grow industrial hemp; and written consent allowing the Department, if a license is ultimately issued to the applicant, to enter onto the premises on which the industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant to ensure compliance with the Arkansas Industrial Hemp Production Act and rules adopted under the Arkansas Industrial Hemp Production Act. Tetrahydrocannabinol levels shall be tested as provided in the Arkansas Industrial Hemp Production Act. The Board shall establish a fee for an initial license and annual renewal license.¹ (Hillman, Rep.)

DEPARTMENT OF COMMERCE

Act 967: This Act creates the Railroad Modernization Act of 2021 and allows an income tax credit for certain railroad track maintenance expenditures. The Department of Commerce shall adopt rules to permit verification of an eligible taxpayer's railroad track maintenance expenditures for purposes of claiming the income tax credit allowed under the Railroad Modernization Act of 2021, provide for the approval of railroad track maintenance expenditures before a project commences, and provide for a certificate of verification upon the completion of a project that uses railroad track maintenance expenditures. (Wardlaw, Rep.)

Arkansas Economic Development Commission

Military Affairs Division

Act 522: This Act creates the Arkansas Military Affairs Council Act and establishes the Military Affairs Grant Program. The Military Affairs Division shall adopt rules to implement and administer the Arkansas Military Affairs Council Act, including without limitation rules regarding the application process for grants provided under the Military Affairs Grant Program, disbursement of grant funds, and reporting required by an eligible applicant that receives grant funds. (English, J., Sen.)

¹ Pursuant to Act 1101 of 2021, an agency assessing or imposing a fee or penalty shall promulgate the fee or penalty by rule. An agency is not required to promulgate a fee or penalty by rule if the specific amount of the fee or penalty is set by statute. A rule assessing or imposing a fee or penalty shall be submitted to Legislative Council for review and approval before a fee or penalty may be assessed or imposed by the agency.

State Insurance Department

Act 665: This Act amends the Arkansas Pharmacy Audit Bill of Rights and amends the Arkansas Pharmacy Benefits Manager Licensure Act. The Insurance Commissioner shall promulgate rules to implement the purposes and requirements of the Arkansas Pharmacy Audit Bill of Rights. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] The Commissioner shall also adopt rules relating to a pharmacy benefit manager's network adequacy, in accord with the requirements set forth in Ark. Code Ann. § 23-92-509(b)(2)(B), as amended by Act 665. (Evans, Rep.)

Act 1018: This Act establishes the Arkansas Insurance Business Transfer Act. The Insurance Commissioner shall promulgate rules to implement the Arkansas Insurance Business Transfer Act. [Final rules to be filed with the Secretary of State on or before January 1, 2021.]² (Rapert, Sen.)

Act 1054: This Act authorizes off-label use of drug treatments to treat patients diagnosed with pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection. The Insurance Commissioner shall develop and promulgate rules for the implementation and administration of Ark. Code Ann. § 23-79-1903, concerning off-label use of drug treatment to treat pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection. (Hammer, K., Sen.)

Act 1103: This Act establishes the 340B Drug Pricing Nondiscrimination Act. The Insurance Commissioner shall promulgate rules to implement the 340B Drug Pricing Nondiscrimination Act. (Gray, M., Rep.)

Act 1105: This Act enables healthcare providers to make appropriate billing decisions that are in the best interest of patients and establishes the Billing in the Best Interest of Patients Act. The Insurance Commissioner shall develop and promulgate rules for the implementation and administration of the Billing in the Best Interest of Patients Act. (Lowery, Rep.)

DEPARTMENT OF CORRECTIONS

Act 187: This Act allows confidential juvenile records to be released to the Department of Corrections. The Department of Corrections shall promulgate rules for the implementation of Ark. Code Ann. § 9-28-217(a)(19), concerning the release or availability of juvenile records to the Department for the purpose of creating a risk assessment, classification plan, or supervision plan for each juvenile who has an

² While the Act specified a date of January 1, 2021, the probable intended date is January 1, 2022.

extended juvenile jurisdiction designation and comes under the supervision or enters into the custody of the Department as an adult from the Division of Youth Services. The rules shall prescribe the procedure for requesting confidential juvenile records under the statute and the manner in which the records shall be used. The Department shall submit the rules to the following committees for review: Senate Interim Committee on Children and Youth; House Committee on Aging, Children and Youth, Legislative and Military Affairs; and Administrative Rules Subcommittee of the Legislative Council. (Fite, C., Rep.)

DEPARTMENT OF EDUCATION

Act 912: This Act creates the Arkansas Tutoring Corps Act and supports the implementation of a sustainable tutoring program in response to learning loss. The Department of Education shall promulgate rules to implement Ark. Code Ann. § 6-15-3004, concerning the development of the program. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Elliott, Sen.)

Division of Elementary and Secondary Education

Act 320: This Act amends provisions of the Arkansas Code concerning mandated vision screenings for public school students. The Division of Elementary and Secondary Education, in conjunction with the Arkansas Commission on Eye and Vision Care of School-Age Children, shall adopt rules to establish the tests, procedures, equipment, and instruments that shall be used to perform eye and vision screenings. (Irvin, Sen.)

Act 513: This Act amends the laws concerning teaching licenses. The Division of Elementary and Secondary Education shall promulgate rules to implement Ark. Code Ann. § 6-17-430, concerning the licensing of noncitizens. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Vaught, Rep.)

Act 551: This Act concerns school resource officers, requires that a school district board of directors and the local law enforcement agency with jurisdiction adopt a memorandum of understanding governing school resource officers, and requires that school resource officers and certain public school employees complete specialized training. The Division of Elementary and Secondary Education shall promulgate rules specifying how the adoption of a memorandum of understanding or policies and procedures shall be verified. (Irvin, Sen.)

Act 620: This Act amends various provisions of the 2015 School Safety Act and establishes the Arkansas Center for School Safety of the Criminal Justice Institute Advisory Board. The Division of Elementary and Secondary Education shall promulgate rules specifying how the completion of the comprehensive school safety audit and confirmation of collaboration with local law enforcement and

emergency management officials shall be verified. The Division shall further promulgate rules describing how the completion of lockdown drills and confirmation of collaboration with local law enforcement and emergency management officials shall be verified. Finally, the Division shall promulgate rules describing how public school compliance with Ark. Code Ann. § 6-15-1303(c)(1)-(2), as amended by Act 620 and concerning the provision of current floor plans and pertinent emergency contact information to appropriate first responders and the updating thereof, will be verified. (Cozart, Rep.)

Act 622: This Act concerns school resource officers, requires that a school district board of directors and the local law enforcement agency with jurisdiction adopt a memorandum of understanding governing school resource officers, and requires that school resource officers and certain public school employees complete specialized training. The Division of Elementary and Secondary Education shall promulgate rules specifying how the adoption of a memorandum of understanding or policies and procedures shall be verified. (Scott, Rep.)

Act 648: This Act amends various provisions of the 2015 School Safety Act and establishes the Arkansas Center for School Safety of the Criminal Justice Institute Advisory Board. The Division of Elementary and Secondary Education shall promulgate rules specifying how the completion of the comprehensive school safety audit and confirmation of collaboration with local law enforcement and emergency management officials shall be verified. The Division shall further promulgate rules describing how the completion of lockdown drills and confirmation of collaboration with local law enforcement and emergency management officials shall be verified. Finally, the Division shall promulgate rules describing how public school compliance with Ark. Code Ann. § 6-15-1303(c)(1)-(2), as amended by Act 648 and concerning the provision of current floor plans and pertinent emergency contact information to appropriate first responders and the updating thereof, will be verified. (Irvin, Sen.)

Act 820: This Act creates the Arkansas Student Protection Act. The Division of Elementary and Secondary Education shall promulgate rules to implement the Arkansas Student Protection Act. (Lowery, Rep.)

***Act 958:** This Act creates the Star-Spangled Banner Act. The Division of Elementary and Secondary Education shall promulgate rules to implement Ark. Code Ann. § 6-10-135, the Star-Spangled Banner Act. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Berry, M., Rep.)

State Board of Education

Act 322: This Act amends provisions of the Arkansas Code concerning enhanced student achievement funding and school funding under the

Public School Funding Act of 2003. The State Board of Education shall promulgate rules for the implementation of Ark. Code Ann. § 6-20-2305(b)(4)(C)(i) that shall include without limitation the process for submitting an enhanced student achievement plan; the process for monitoring the expenditure of funds allocated under § 6-20-2305(b)(4); and the specific requirements, qualifications, and criteria for allowable supports and resources. (Irvin, Sen.)

Act 545: This Act amends provisions of the Arkansas Code concerning technical and vocational education and amends provisions of the Arkansas Code concerning alternate retirement plans. The State Board of Education shall promulgate rules to administer Ark. Code Ann. § 25-30-107, which concerns the powers and duties of the Division of Career and Technical Education and the authority and responsibility of the State Board and the Division that includes the general control and supervision of all programs of vocational, technical, and occupational education in secondary institutions. (English, J., Sen.)

Act 657: This Act establishes the Highly Qualified Professor and Teacher Act. The State Board of Education shall promulgate rules to implement the Highly Qualified Professor and Teacher Act. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Allen, F., Rep.)

***Act 1031:** This Act creates the Arkansas Military Child School Transitions Act of 2021 and advances achievement of educational success on behalf of children of military families. The State Board of Education shall promulgate rules to implement the Arkansas Military Child School Transitions Act of 2021. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (English, J., Sen.)

Division of Higher Education

Act 539: This Act creates the Higher Education Consumer Guide Act. The Division of Higher Education shall promulgate rules to implement the Higher Education Consumer Guide Act. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Irvin, Sen.)

***Act 958:** This Act creates the Star-Spangled Banner Act. The Division of Higher Education shall promulgate rules to implement Ark. Code Ann. § 6-60-113, the Star-Spangled Banner Act. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Berry, M., Rep.)

Arkansas Higher Education Coordinating Board

Act 69: This Act enhances higher education fiscal accountability and transparency and amends provisions of the Arkansas Code concerning

student accounts receivable policies and certain financial condition reports. The Arkansas Higher Education Coordinating Board shall develop rules to implement Ark. Code Ann. § 6-61-131, concerning student accounts receivable policies at state-supported institutions of higher education, and Ark. Code Ann. § 6-62-109, concerning annual certification of solvency. (Irvin, Sen.)

DEPARTMENT OF FINANCE AND ADMINISTRATION

Act 970: This Act provides a sales and use tax exemption for certain utilities used by a poultry farm and requires the adoption of rules related to the creation of a sales and use tax exemption for certain utilities used by a poultry farm. The Secretary of the Department of Finance and Administration shall promulgate rules for the proper administration of Ark. Code Ann. § 26-52-453, concerning water used in poultry farming. [Final rules to be filed with the Secretary of State on or before October 1, 2021.] (Christiansen, Rep.)

Alcoholic Beverage Control Division

Act 68: This Act establishes an excursion train permit and authorizes an excursion train permit holder to sell and serve alcoholic beverages. The Director of the Alcoholic Beverage Control Division shall adopt rules to implement and administer Ark. Code Ann. § 3-4-612, concerning excursion train permits. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Eads, L., Sen.)

Act 578: This Act amends the law regarding alcoholic beverages and authorizes beer wholesalers to distribute certain ready-to-drink products. The Alcoholic Beverage Control Division shall promulgate rules regarding the distribution of ready-to-drink products containing spirituous liquor with a final finished product of no greater than fifteen percent (15%) alcohol by weight and malt liquor. [Final rules to be filed with the Secretary of State on or before July 1, 2022, and the rules promulgated shall not be effective before July 1, 2022.] (Johnson, M., Sen.)

Act 703: This Act authorizes certain permit holders to sell alcoholic beverages directly to consumers to be consumed off-premises or delivered to the consumer at a location off-premises. The Director of the Alcoholic Beverage Control Division shall adopt rules to implement and administer Ark. Code Ann. § 3-4-107, concerning alcoholic beverages with food purchase. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (English, J., Sen.)

Arkansas Racing Commission

Act 682: This Act enables the Arkansas Racing Commission to require certain employees to apply for a license and requires background checks on an applicant

for a license. The Commission shall promulgate rules to implement Ark. Code Ann. § 23-117-102(b), as created by the Act. (Fortner, Rep.)

Office of the Arkansas Lottery

Act 636: This Act amends the Arkansas Academic Challenge Scholarship Program and establishes procedures and funding requirements for the creation or amendment of scholarships funded with net revenue available. The Office of the Arkansas Lottery shall promulgate rules to determine the manner in which the net proceeds from the state lottery are deposited and disbursed based on what is most financially prudent. (Hickey, Sen.)

DEPARTMENT OF HEALTH

Arkansas Board of Podiatric Medicine

***Act 651:** This Act mandates the coprescription of an opioid antagonist under certain conditions and amends the Naloxone Access Act. A licensing entity that is authorized to license an individual to prescribe opioids shall promulgate guidance or rules³ concerning the coprescribing of an opioid antagonist that are no less restrictive than those adopted by the Arkansas State Medical Board and the Arkansas State Board of Pharmacy. A licensing entity so described includes without limitation the Arkansas State Board of Nursing, the Arkansas State Board of Dental Examiners, the State Board of Optometry, and the Arkansas Board of Podiatric Medicine. (Bledsoe, Sen.)

Arkansas State Board of Dental Examiners

***Act 651:** This Act mandates the coprescription of an opioid antagonist under certain conditions and amends the Naloxone Access Act. A licensing entity that is authorized to license an individual to prescribe opioids shall promulgate guidance or rules concerning the coprescribing of an opioid antagonist that are no less restrictive than those adopted by the Arkansas State Medical Board and the Arkansas State Board of Pharmacy. A licensing entity so described includes without limitation the Arkansas State Board of Nursing, the Arkansas State Board of Dental Examiners, the State Board of Optometry, and the Arkansas Board of Podiatric Medicine. (Bledsoe, Sen.)

Arkansas State Board of Nursing

***Act 651:** This Act mandates the coprescription of an opioid antagonist under certain conditions and amends the Naloxone Access Act. A licensing entity that is authorized to license an individual to prescribe opioids shall promulgate guidance or rules concerning the coprescribing of an opioid antagonist that are

³ As used in the context of Act 651, the term “promulgate” suggests rulemaking.

no less restrictive than those adopted by the Arkansas State Medical Board and the Arkansas State Board of Pharmacy. A licensing entity so described includes without limitation the Arkansas State Board of Nursing, the Arkansas State Board of Dental Examiners, the State Board of Optometry, and the Arkansas Board of Podiatric Medicine. (Bledsoe, Sen.)

Arkansas State Board of Pharmacy

***Act 503:** This Act allows pharmacists to treat certain health conditions, modifies physician dispensing, and allows delegation of physician dispensing. The Arkansas State Board of Pharmacy, with consultation and upon approval of the Arkansas State Medical Board, shall adopt by rule: (a) a formulary of medicinal drugs that a pharmacist may prescribe for treatment of conditions listed in Ark. Code Ann. § 17-92-101(17)(A)(x)(b); and (b) a written statewide protocol for conditions listed in Ark. Code Ann. § 17-92-101(17)(A)(x)(b), which shall include without limitation the age of people that can be treated and medications to be used to treat people under the subdivision. The formulary shall include medicinal drugs approved by the United States Food and Drug Administration that are indicated for treatment of these conditions, including without limitation any over-the-counter medication. The formulary shall not include any controlled substance in Schedule I-IV or 21 U.S.C. § 812, as existing on January 1, 2021. (Johnson, L., Rep.)

***Act 651:** This Act mandates the coprescription of an opioid antagonist under certain conditions and amends the Naloxone Access Act. No later than six (6) months after the effective date of the Act, the Arkansas State Medical Board and the Arkansas State Board of Pharmacy shall jointly develop and publish guidance or rules that address the circumstances in which a healthcare professional is required to prescribe or dispense, or both, an opioid antagonist to a patient when prescribing or dispensing an opioid. The guidance or rules shall: (1) at a minimum, establish coprescribing requirements based on the daily dosage specified in Ark. Code Ann. § 20-13-1805(b)(1)(A); the number of days for which the opioid prescription is written or dispensed; a patient's past or current history of benzodiazepine prescriptions; and a patient's history of substance use disorder or overdose; and (2) include provisions for documentation and patient counseling that address use of an opioid antagonist, overdose prevention, and situations in which the healthcare professional determines coprescribing is inappropriate for a particular patient. Counseling and patient education shall utilize guidelines and recommendations from nationally recognized organizations such as the United States Food and Drug Administration and the Centers for Disease Control and Prevention. (Bledsoe, Sen.)

Act 922: This Act sets standards for prescriptions delivery. The Arkansas State Board of Pharmacy shall promulgate and maintain rules defining the standard of

care for pharmacies and pharmacists that provide home delivery services in this state. (Gray, M., Rep.)

Arkansas State Medical Board

***Act 503:** This Act allows pharmacists to treat certain health conditions, modifies physician dispensing, and allows delegation of physician dispensing. The Arkansas State Medical Board shall adopt rules for physician dispensing that, at minimum, meet the same requirements for dispensing and oversight established by the Arkansas State Board of Pharmacy. (Johnson, L., Rep.)

***Act 560:** This Act creates the Informed Consent for Chemical Abortion Act. The Arkansas State Medical Board shall promulgate rules to ensure that physicians who perform abortions, referring physicians, or agents of either physician comply with all the requirements of the Informed Consent for Chemical Abortion Act. (Lundstrum, Rep.)

***Act 651:** This Act mandates the coprescription of an opioid antagonist under certain conditions and amends the Naloxone Access Act. No later than six (6) months after the effective date of the Act, the Arkansas State Medical Board and the Arkansas State Board of Pharmacy shall jointly develop and publish guidance or rules that address the circumstances in which a healthcare professional is required to prescribe or dispense, or both, an opioid antagonist to a patient when prescribing or dispensing an opioid. The guidance or rules shall: (1) at a minimum, establish coprescribing requirements based on the daily dosage specified in Ark. Code Ann. § 20-13-1805(b)(1)(A); the number of days for which the opioid prescription is written or dispensed; a patient's past or current history of benzodiazepine prescriptions; and a patient's history of substance use disorder or overdose; and (2) include provisions for documentation and patient counseling that address use of an opioid antagonist, overdose prevention, and situations in which the healthcare professional determines coprescribing is inappropriate for a particular patient. Counseling and patient education shall utilize guidelines and recommendations from nationally recognized organizations such as the United States Food and Drug Administration and the Centers for Disease Control and Prevention. (Bledsoe, Sen.)

Full Independent Practice Credentialing Committee

Act 769: This Act makes an appropriation for personal services and operating expenses for the Department of Health – Licensing and Regulation Boards for the fiscal year ending June 30, 2022. The Full Independent Practice Credentialing Committee shall establish fees relating to application, certification, endorsement,

certification for prescriptive authority, certification renewal, and other reasonable services as determined by the Committee.⁴ (Joint Budget Committee)

State Board of Health

***Act 560:** This Act creates the Informed Consent for Chemical Abortion Act. The State Board of Health shall adopt rules to implement the Informed Consent for Chemical Abortion Act. (Lundstrum, Rep.)

Act 707: This Act provides for data collection and evaluation of emergency medical care and initial time-critical diagnoses and procedures and ensures confidentiality to help improve health outcomes and prompt treatment. The Department of Health shall develop a data collection and evaluation process to review nonhospital emergency medical care and time-critical diagnoses and procedures conducted by licensed emergency medical services personnel. The State Board of Health shall promulgate rules for the Department to implement the process, which shall be designed to study both the individual and collective care and treatment given to patients. (Johnson, L., Rep.)

State Board of Optometry

***Act 651:** This Act mandates the coprescription of an opioid antagonist under certain conditions and amends the Naloxone Access Act. A licensing entity that is authorized to license an individual to prescribe opioids shall promulgate guidance or rules concerning the coprescribing of an opioid antagonist that are no less restrictive than those adopted by the Arkansas State Medical Board and the Arkansas State Board of Pharmacy. A licensing entity so described includes without limitation the Arkansas State Board of Nursing, the Arkansas State Board of Dental Examiners, the State Board of Optometry, and the Arkansas Board of Podiatric Medicine. (Bledsoe, Sen.)

State Radiation Control Agency⁵

Act 268: This Act amends and updates the Arkansas Code regarding regulation of ionizing radiation to comply with federal laws and regulations. For licensed activities involving commercial burial of radioactive waste, the State Radiation Control Agency shall, and for other classes of licensed activity the State Radiation

⁴ Pursuant to Act 1101 of 2021, an agency assessing or imposing a fee or penalty shall promulgate the fee or penalty by rule. An agency is not required to promulgate a fee or penalty by rule if the specific amount of the fee or penalty is set by statute. A rule assessing or imposing a fee or penalty shall be submitted to Legislative Council for review and approval before a fee or penalty may be assessed or imposed by the agency.

⁵ Pursuant to Ark. Code Ann. § 20-21-206(a), the State Board of Health is designated as the State Radiation Control Agency.

Control Agency may, establish by rule standards and procedures to ensure that the licensee will provide an adequate surety or other financial arrangement to permit the completion of all requirements established by the State Radiation Control Agency for the decontamination, closure, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with such licensed activity, in case the licensee should default for any reason in performing such requirements. The State Radiation Control Agency shall further provide by rule for licensing of radioactive material, or devices or equipment utilizing such material, and for licensing or registration of radiation equipment, in accord with Ark. Code Ann. § 20-21-213, concerning licensing and registration requirements. (Ladyman, Rep.)

DEPARTMENT OF HUMAN SERVICES

Act 745: This Act ensures that beneficiaries of the Arkansas Medicaid Program have access to new products and label expansions approved by the United States Food and Drug Administration. The Department of Human Services shall amend any rules or bylaws of the Arkansas Medicaid Drug Utilization Review Board to implement Ark. Code Ann. § 20-77-140, concerning products and label expansions approved by the United States Food and Drug Administration. (Irvin, Sen.)

Act 937: This Act clarifies that the Department of Human Services is required to promulgate rules to establish eligibility for long-term care nursing facility placement. The Department shall promulgate rules to establish eligibility determinations for long-term care nursing facility placement. (Ladyman, Rep.)

DEPARTMENT OF INSPECTOR GENERAL

Tax Appeals Commission

Act 586: This Act amends the laws pertaining to the administration of state taxes, amends the administrative hearing procedures for state taxes, amends the procedures for taxpayer judicial relief, and creates the Independent Tax Appeals Commission Act. The Tax Appeals Commission shall promulgate rules and forms to carry out the intent and purpose of the Independent Tax Appeals Commission Act and implement the duties assigned to the Commission, including without limitation rules governing pleadings and service of process requirements to commence a hearing under the Independent Tax Appeals Commission Act and the practice and procedure rules of the Commission; to provide for expedited proceedings; to establish guidelines for the redaction of personally identifying taxpayer information in published decisions; and to establish a procedure for petitions and hearings under Ark. Code Ann. §§ 26-18-402, 26-18-601(b) and (c), 26-18-1002, 26-36-315, 26-55-219, 26-55-224, 26-55-231, 26-55-247, 26-56-204, 26-56-311, 26-57-413, 26-57-419, 26-57-1212, and 26-62-204. [Final rules to be filed with the Secretary of State on or before December 1, 2022.] (Jett, Rep.)

DEPARTMENT OF LABOR AND LICENSING

Division of Occupational and Professional Licensing Boards and Commissions

Arkansas Towing and Recovery Board

Act 789: This Act amends the law concerning the removal or immobilization of unattended or abandoned vehicles. The Arkansas Towing and Recovery Board shall promulgate rules to carry out the intent of Arkansas Code Title 27, Chapter 50, Subchapter 12, concerning the removal or immobilization of unattended or abandoned vehicles, and shall regulate the towing industry and vehicle immobilization service industry, including: adopting rules for the registration of a person engaged in a consent-only towing business; issuance of a certificate of registration required under § 27-50-1203(f)(1)(A)(iii); and the denial, revocation, or suspension of a license or permit issued under the subchapter. (Christiansen, Rep.)

DEPARTMENT OF PARKS, HERITAGE, AND TOURISM

Arkansas History Commission

***Act 1003:** This Act creates the Arkansas State Capitol and Historical Monument Protection Act. The Arkansas History Commission shall promulgate rules under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to: (1) establish a process for the application for a waiver from the requirements of Ark. Code Ann. § 22-3-2104(a)(1); (2) create a process for the approval of a temporary waiver on an emergency basis; (3) establish guidelines regarding what will be designated as a historical monument; (4) create an application process for registering historical monuments erected after the effective date of the section; (5) establish guidelines for the disposition of historical monuments if a waiver is granted to remove a historical monument; and (6) otherwise effectuate the purposes of the Arkansas State Capitol and Historical Monument Protection Act. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Johnson, M., Sen.)

Division of Arkansas Heritage

Act 777: This Act establishes the Arkansas Cultural Institutions Trust Fund Act. The Division of Arkansas Heritage shall promulgate rules to implement the Arkansas Cultural Institutions Trust Fund Act that shall include criteria for the distribution of grant funds, including without limitation the following factors: estimated economic and tourism impact of the project, availability of other project funding sources, and overall project cost. [Final rules to be filed with the Secretary of State on or before November 1, 2021.] (Dismang, J., Sen.)

DEPARTMENT OF PUBLIC SAFETY

Division of Arkansas State Police

Act 841: This Act creates an income tax credit for retired law enforcement officers who work cold cases for the Division of Arkansas State Police. The Director of the Division of Arkansas State Police shall promulgate rules to implement Ark. Code Ann. § 26-51-515, concerning work on cold cases by retired law enforcement officers, and consult with the Department of Finance and Administration in promulgating rules under the statute. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Eubanks, Rep.)

State Crime Laboratory Board

Act 360: This Act establishes the State Crime Laboratory Student Loan Forgiveness Program. The State Crime Laboratory Board shall promulgate rules for determining a pathologist's eligibility for student loan forgiveness under the program that shall include the following requirements: satisfactory completion of any probationary employment period; proof of a student loan that remains unpaid, including the name and address of the student loan creditor; and an executed employment contract with the laboratory in which the pathologist agrees to work for the laboratory for a term that equals twenty-four (24) months for each year that the program makes a payment on the pathologist's student loan and reimburse the program if the pathologist resigns or is terminated for cause before the term of the employment contract terminates. (Tosh, Rep.)

DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES

Act 1100: This Act prohibits the propagation of divisive concepts and provides for the review of state entity training materials. The Secretary of the Department of Transformation and Shared Services shall develop rules for the enforcement of the provisions of Arkansas Code Title 25, Chapter 1, Subchapter 6, concerning the prohibition of propagation of divisive concepts. (Garner, T., Sen.)

INDEPENDENT NON-CABINET LEVEL DEPARTMENTS

ARKANSAS ETHICS COMMISSION

Act 384: This Act amends campaign contribution amounts, amends the law concerning campaign practices, requires the Arkansas Ethics Commission to promulgate rules, and amends portions of the law resulting from Initiated Act 1 of 1990 and Initiated Act 1 of 1996. The Arkansas Ethics Commission shall establish the maximum campaign contribution limit by rule as set forth in Ark. Code Ann. § 7-6-203(i). (Tucker, C., Sen.)

ARKANSAS TEACHER RETIREMENT SYSTEM

Act 691: This Act amends certain provisions of Title 24 of the Arkansas Code concerning retirement and pensions, concerns the membership of participants in summer youth work programs in the Arkansas Teacher Retirement System, and amends the definition of “employee.” The Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules for the implementation of Ark. Code Ann. § 24-7-202(16)(B)(i), concerning the definition of “employee.” The Board shall further promulgate rules for the implementation of Ark. Code Ann. § 24-7-507, concerning youth participants and summer work programs. (Murdock, Rep.)

STATE BOARD OF ELECTION COMMISSIONERS

Act 1051: This Act amends Arkansas law concerning county boards of election commissioners, amends how county boards of election commissioners take the oath, amends Arkansas law concerning elections, and amends the law concerning poll workers. The State Board of Election Commissioners shall promulgate rules under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., concerning the training requirements, materials, and examination of essential skills. (Hammer, K., Sen.)

CONSTITUTIONAL OFFICES

COMMISSIONER OF STATE LANDS

Act 447: This Act amends the procedure by which the Commissioner of State Lands sells tax-delinquent land. The Commissioner of State Lands shall promulgate rules to carry out the provisions of Ark. Code Ann. § 26-37-202, concerning the procedure to sell. (Bentley, Rep.)

SECRETARY OF STATE

Act 980: This Act protects domestic violence victims’ voter registration information, amends the duties of the Secretary of State, and amends Arkansas election procedure. The Secretary of State shall promulgate rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to implement the process by which a registered voter who is the victim of domestic violence may request secure voter status from the county clerks including without limitation the administrative process a county clerk shall use to verify eligibility for secure voter status; the documentation required for domestic violence victims to be approved for secure voter status; the format in which the county clerk shall maintain any address of all registered voters listed on the voter registration roll when the registered voter has a secure voter status; and the process for complying with a post-election challenge involving a secure voter. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Clowney, Rep.)

TREASURER OF STATE

Arkansas Financial Education Commission

Act 1025: This Act establishes the Arkansas Financial Education Commission. The Board of Directors of the Arkansas Financial Education Commission shall adopt rules to implement and administer the Arkansas Financial Education Commission. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Irvin, Sen.)

GENERAL, AGENCY NOT SPECIFIED

***Act 651:** This Act mandates the coprescription of an opioid antagonist under certain conditions and amends the Naloxone Access Act. A licensing entity that is authorized to license an individual to prescribe opioids shall promulgate guidance or rules concerning the coprescribing of an opioid antagonist that are no less restrictive than those adopted by the Arkansas State Medical Board and the Arkansas State Board of Pharmacy. A licensing entity so described includes without limitation the Arkansas State Board of Nursing, the Arkansas State Board of Dental Examiners, the State Board of Optometry, and the Arkansas Board of Podiatric Medicine. (Bledsoe, Sen.)

SECTION II: ACTS REFERENCING RULEMAKING AND INCLUDING THE TERM "NECESSARY"

CABINET LEVEL DEPARTMENTS

DEPARTMENT OF AGRICULTURE

***Act 418:** This Act creates a state meat inspection program, amends the Arkansas Meat and Meat Products Inspection Act, amends the Meat and Meat Products Certification Act, creates the State Meat Inspection Program Fund, and transfers authority over meat inspection to the Department of Agriculture. The Secretary of the Department of Agriculture shall promulgate rules and appoint qualified personnel as necessary to carry out the purposes or provisions of the Arkansas Meat and Meat Products Inspection Act. In addition, the Secretary of the Department of Agriculture shall promulgate rules that are necessary to carry out the purposes and provisions of the Meat and Meat Products Certification Act. (Vaught, Rep.)

Arkansas Natural Resources Commission

***Act 605:** This Act amends the law concerning retail water providers and related service. The Arkansas Natural Resources Commission shall promulgate rules necessary to implement Arkansas Code Title 14, Chapter 234, Subchapter 8,

concerning oversight of retail water providers. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Clark, A., Sen.)

DEPARTMENT OF COMMERCE

State Insurance Department

Act 97: This Act regulates step therapy protocols. The Insurance Commissioner shall promulgate rules necessary to implement Arkansas Code Title 23, Chapter 79, Subchapter 21, concerning regulation of step therapy protocols. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Bledsoe, Sen.)

***Act 357:** This Act requires a health benefit plan to provide coverage for early refills of prescription eye drops and establishes the Arkansas Coverage for Early Refills of Prescription Eye Drops Act. Except for those rules that may apply to the Arkansas Medicaid Program, the Insurance Commissioner shall promulgate rules necessary to implement Act 357. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Magie, Rep.)

Act 672: This Act modifies the Arkansas Credit for Reinsurance Law. The Insurance Commissioner shall promulgate rules necessary to implement Ark. Code Ann. § 23-62-306 that address the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements as described in § 23-62-308(b), and the circumstances in which credit of a noncomplying assuming insurer shall be reduced or eliminated. (Lowery, Rep.)

Act 965: This Act establishes the Arkansas Fairness in Cost Sharing Act. The Insurance Commissioner shall promulgate rules necessary to carry out the Arkansas Fairness in Cost Sharing Act. The rules promulgated shall require a healthcare insurer and the Director of the Evidenced-Based Prescription Drug Program of the College of Pharmacy of the University of Arkansas Medical Sciences to submit to the Commissioner plan-specific information related to savings and accountability to document how enrollees are realizing a cost savings under each plan. The Commissioner shall further promulgate rules necessary to carry out Ark. Code Ann. § 23-92-511, concerning fairness in cost sharing. The rules promulgated under the statute shall require a healthcare insurer and the Director of the Evidenced-Based Prescription Drug Program of the College of Pharmacy of the University of Arkansas Medical Sciences to submit plan-specific information related to savings and accountability to document how enrollees are realizing a cost savings under each plan. The Insurance Commissioner shall also promulgate rules necessary to implement Act 965. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Lundstrum, Rep.)

State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

Act 343: This Act modifies the Cemetery Act for Perpetually Maintained Cemeteries and amends the Insolvent Cemetery Grant Fund Act. The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services shall promulgate rules necessary to implement Act 343. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Crawford, Rep.)

DEPARTMENT OF EDUCATION

Division of Elementary and Secondary Education

***Act 1031:** This Act creates the Arkansas Military Child School Transitions Act of 2021 and advances achievement of educational success on behalf of children of military families. The Division of Elementary and Secondary Education shall promulgate rules necessary to implement Act 1031. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (English, J., Sen.)

***Act 1050:** This Act amends the law concerning the health and safety of public school students. The Division of Elementary and Secondary Education shall, in coordination with the Arkansas State Board of Nursing, promulgate rules necessary to implement Ark. Code Ann. § 17-87-103(14), concerning the administration of an emergency dose medication to a public school student with adrenal insufficiency by trained public school personnel. (Hester, Sen.)

State Board of Education

Act 741: This Act amends provisions of the Arkansas Code concerning the Succeed Scholarship Program. The State Board of Education shall adopt rules and develop notices and other documentation necessary to administer the Succeed Scholarship Program, including without limitation rules concerning the method for applying for a scholarship, that are in the best interest of students. (Hester, Sen.)

DEPARTMENT OF FINANCE AND ADMINISTRATION

***Act 765:** This Act establishes the Law Enforcement Family Relief Check-Off Program and establishes the Law Enforcement Family Relief Trust Fund. The Secretary of the Department of Finance and Administration shall promulgate all rules and all income tax forms, returns, and schedules necessary to carry out the Law Enforcement Family Relief Check-Off Program under Ark. Code Ann. § 26-51-2511. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Berry, M., Rep.)

Revenue Division

Act 904: This Act creates a tax credit for eligible contributions made to a sponsor-granting organization under the Philanthropic Investment in Arkansas Kids Program. The Revenue Division of the Department of Finance and Administration shall promulgate rules that are necessary to carry out the purposes of Ark. Code Ann. § 6-18-2207, concerning the duties of the Department and Division of Elementary and Secondary Education. The Revenue Division shall consult with the Division of Elementary and Secondary Education during the promulgation of the rules. (Dismang, J., Sen.)

DEPARTMENT OF HEALTH

Arkansas Psychology Board

Act 883: This Act establishes the Psychological Interjurisdictional Compact in Arkansas. The Arkansas Psychology Board shall promulgate rules necessary to implement Act 883. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Johnson, L., Rep.)

Arkansas State Medical Board

Act 803: This Act authorizes a multiyear license or registration for a physician by the Arkansas State Medical Board. The Arkansas State Medical Board shall promulgate rules necessary to implement Act 803. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Hodges, M., Rep.)

DEPARTMENT OF HUMAN SERVICES

***Act 357:** This Act requires a health benefit plan to provide coverage for early refills of prescription eye drops and establishes the Arkansas Coverage for Early Refills of Prescription Eye Drops Act. The Secretary of the Department of Human Services shall promulgate rules necessary to implement Act 357 that may apply to the Arkansas Medicaid Program. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Magie, Rep.)

Act 530: This Act amends Title 23 of the Arkansas Code to ensure the stability of the insurance market in Arkansas; promotes economic and personal health, personal independence, and opportunity for Arkansans through program planning and initiatives; and creates the Arkansas Health and Opportunity for Me Act of 2021 and the Arkansas Health and Opportunity for Me Program. The Department of Human Services shall adopt rules necessary to implement the Arkansas Health and Opportunity for Me Act of 2021. (Irvin, Sen.)

Act 643: This Act mandates that the Arkansas Medicaid Program cover a continuous glucose monitor for an individual with diabetes. The Secretary of the Department of Human Services shall promulgate rules necessary to implement Section 1 of Act 643, to

be codified at Ark. Code Ann. § 20-7-141, concerning the definition of continuous glucose monitor. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Davis, B., Sen.)

***Act 1017:** This Act clarifies that the Department of Human Services is the agency that regulates long-term care facilities and removes references to the Office of Long-Term Care. The Department of Human Services shall promulgate rules necessary for facility or program provider surveys conducted by the Department, which shall include without limitation provisions concerning conducting entrance and exit conferences, access to records of a facility or program provider, corrective action plans, and timelines for completion of a survey. (Wallace, D., Sen.)

DEPARTMENT OF PARKS, HERITAGE, AND TOURISM

Arkansas History Commission

***Act 1003:** This Act creates the Arkansas State Capitol and Historical Monument Protection Act. The Arkansas History Commission shall promulgate rules necessary to implement Act 1003. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Johnson, M., Sen.)

DEPARTMENT OF PUBLIC SAFETY

***Act 765:** This Act establishes the Law Enforcement Family Relief Check-Off Program and establishes the Law Enforcement Family Relief Trust Fund. The Secretary of the Department of Public Safety shall promulgate all rules necessary to implement the grant program created under Ark. Code Ann. § 26-51-2511, concerning the Law Enforcement Family Relief Check-off Program. [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Berry, M., Rep.)

CONSTITUTIONALLY SEPARATE DEPARTMENTS

STATE HIGHWAY COMMISSION

Arkansas Department of Transportation

Act 451: This Act authorizes the issuance of a special permit by the State Highway Commission to transport forestry equipment. The Arkansas Department of Transportation shall adopt rules necessary to implement Ark. Code Ann. § 27-35-210(r)(1), including without limitation the criteria required to qualify for the issuance of a special permit. The Department shall adopt the rules within one (1) year of the effective date of Act 451. (Wardlaw, Rep.)

GENERAL, AGENCY NOT SPECIFIED

***Act 711:** This Act defines and clarifies reciprocal service credit among the public employment retirement systems generally and amends the law concerning reciprocal service credit. The board of trustees of each reciprocal system⁶ shall promulgate rules necessary to coordinate the retirement benefits of the reciprocal system with any other reciprocal system. (Warren, Rep.)

Act 725: This Act creates the Workforce Expansion Act of 2021. Appropriate state entities shall promulgate any necessary rules to implement Ark. Code Ann. § 4-25-110, concerning a fee waiver for certain individuals. Additionally, a licensing entity⁷ shall promulgate any necessary rules to implement the Workforce Expansion Act of 2021. (Gilmore, Sen.)

Act 746: This Act authorizes occupational or professional licensure for certain individuals. All occupational or professional licensing entities shall promulgate rules necessary to implement Act 746, which provides that an occupational or professional licensing entity⁸ shall grant an occupational or professional license under Ark. Code Ann. § 17-1-109 to an individual who fulfills the requirements to practice an occupation or profession in this state and is a person who holds a Federal Form I-766 United States Citizenship and Immigration Services-issued Employment Authorization Document,

⁶ “Reciprocal system,” defined in Ark. Code Ann. § 24-2-401(3), as amended by Act 545 of 2021, § 24, means the Arkansas Teacher Retirement System; the Arkansas State Highway Employees’ Retirement System; the Arkansas Public Employees’ Retirement System; the State Police Retirement System; the Arkansas Judicial Retirement System; an alternate retirement plan for a college, university, or the Division of Higher Education provided for under § 24-7-801 et seq., or a vocational-technical school or the Division of Career and Technical Education, the Adult Education Section of the Division of Workforce Services, the Division of Higher Education, and the Office of Skills Development, with respect to plans provided for under § 24-7-901 et seq.; or the Arkansas Local Police and Fire Retirement System.

⁷ “Licensing entity,” as used in the Workforce Expansion Act of 2021, “means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession. ‘Licensing entity’ does not include a political subdivision of the state or any other local or regional governmental entity, including without limitation a city of the first class, a city of the second class, an incorporated town, or a county.” Ark. Code Ann. § 17-4-103(2), as amended by Act 725 of 2021, § 2.

⁸ “Occupational or professional licensing entity,” as used in Ark. Code Ann. § 17-1-109, “means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession.” Ark. Code Ann. § 17-1-109(a)(2), as amended by Act 746 of 2021, § 1.

known popularly as a “work permit.” [Final rules to be filed with the Secretary of State on or before January 1, 2022.] (Penzo, Rep.)

Act 811: This Act creates the Earn and Learn Act and allows individuals to work and earn a paycheck while also fulfilling licensing requirements and gaining the skills to fill the needs of an expanding workforce. All licensing entities⁹ as required under Act 811 shall promulgate rules necessary to implement Act 811. The Earn and Learn Act does not apply to a licensing entity that does not license individual workers for which there is an apprenticeship program established under 29 C.F.R. Part 29, as existing on March 1, 2021; a license that requires the educational equivalent of a bachelor’s degree or higher; or a license issued by the State Board of Barber Examiners or the Department of Health regarding cosmetology. [Final rules to be filed with the Secretary of State on or before January 1, 2022] (Bryant, Rep.)

SECTION III: ACTS REASSINGING RULEMAKING TO A DIFFERENT AGENCY OR ENTITY

CABINET LEVEL DEPARTMENTS

DEPARTMENT OF AGRICULTURE

***Act 418:** This Act creates a state meat inspection program, amends the Arkansas Meat and Meat Products Inspection Act, amends the Meat and Meat Products Certification Act, creates the State Meat Inspection Program Fund, and transfers authority over meat inspection to the Department of Agriculture. The Secretary of the Department of Agriculture shall promulgate rules and appoint qualified personnel as necessary to carry out the purposes or provisions of the Arkansas Meat and Meat Products Inspection Act. In addition, the Secretary of the Department of Agriculture shall promulgate rules that are necessary to carry out the purposes and provisions of the Meat and Meat Products Certification Act.¹⁰ (Vaught, Rep.)

Act 901: This Act amends the Arkansas Unpaved Roads Program Act, transfers duties to the Department of Agriculture, and authorizes the Department of Agriculture to promulgate rules and award grant funds. The Department of Agriculture shall promulgate rules to implement and administer the Arkansas Unpaved Roads Program

⁹ “Licensing entity,” as used in the Earn and Learn Act, “means an office, board, commission, department, council, bureau, or other agency of state government having authority to license, certify, register, permit, or otherwise authorize an individual to engage in a particular occupation or profession.” Ark. Code Ann. § 17-4-103(3), as amended by Act 811 of 2021, § 1.

¹⁰ The duties outlined were previously the responsibility of the Secretary of the Department of Health.

Act, including without limitation rules regarding the application process, the creation and administration of an advisory committee to assist the Department in evaluating applications and making funding determinations, the disbursement of grant funds, the reporting required by counties that receive grant funds under the Arkansas Unpaved Roads Program Act, the evaluation and assessment of unpaved road projects approved for grants, the expenses that are eligible for grant funds, and the standards a county is required to meet in completing an unpaved road project.¹¹ (Irvin, Sen.)

DEPARTMENT OF COMMERCE

Division of Workforce Services

Act 770: This Act makes an appropriation for personal services and operating expenses for the Department of Commerce – Division of Workforce Services for the fiscal year ending June 30, 2022. The Division of Workforce Services shall promulgate rules and regulations for the distribution of funds that become available for Adult Education in accordance with criteria to be determined by the Division.¹² (Joint Budget Committee)

DEPARTMENT OF HUMAN SERVICES

***Act 1017:** This Act clarifies that the Department of Human Services is the agency that regulates long-term care facilities and removes references to the Office of Long-Term Care. Rulemaking responsibilities throughout the Act are reassigned to the Department of Human Services. (Wallace, D., Sen.)

SECTION IV: ACTS REQUIRING ACTION THAT COULD FALL WITHIN THE SCOPE OF RULEMAKING

CABINET LEVEL DEPARTMENTS

DEPARTMENT OF EDUCATION

Division of Elementary and Secondary Education

***Act 1050:** This Act amends the law concerning the health and safety of public school students. The Division of Elementary and Secondary Education shall develop guidance and education for school nurses to train volunteer public school personnel as required under Ark. Code Ann. § 17-87-103(14), concerning the

¹¹ The duties outlined were previously the responsibility of the Arkansas Natural Resources Commission.

¹² The duties outlined were previously the responsibility of the Career Education and Workforce Development Board.

administration of an emergency dose medication to a public school student with adrenal insufficiency by trained public school personnel. (Hester, Sen.)

Act 1074: This Act creates the Healthy Active Arkansas Schools Act. By the 2022-2023 school year, the Division of Elementary and Secondary Education shall, in consultation with the Department of Health, develop guidance for public schools and open-enrollment public charter schools to address the following priorities and require that the following priorities be included in the public school's or open-enrollment public charter school's health and wellness priority: physical and built environment, nutritional standards and access to healthy foods, physical education and activity, and breastfeeding practices, as applicable. (Bentley, Rep.)

DEPARTMENT OF HEALTH

Act 900: This Act amends the Cosmetology Technical Advisory Committee to include members from the permanent and semipermanent cosmetic industry and the body art industry and establishes procedures for licensure and regulations of permanent cosmetics and semipermanent cosmetics procedures. With respect to body art, the Department of Health shall adopt a minimum curriculum for each area of body art training that shall be followed by all artist trainers, artists in training, and body art training facilities. Further, the Department shall develop standards to determine the maximum number of artists in training in a training facility at any time and the length of the program in hours and across a range of months. The Department shall also create and publish a list of critical items for closure of an establishment and shall list the prohibitions in Ark. Code Ann. § 17-26-611 as critical items for closure. Similarly, concerning permanent cosmetics and semipermanent cosmetics, the Department shall adopt a minimum curriculum for each area of permanent cosmetics and semipermanent cosmetics training that shall be followed by all sponsor educators, students, and institutions. The Department shall additionally develop standards to determine the maximum number of students in an institution at one (1) time and the length of the program in hours and across a range of months. The Department shall also create and publish a list of critical items for closure of an establishment. (Hammer, K., Sen.)

Arkansas State Board of Pharmacy

Act 408: This Act amends the provisions of the Arkansas Code concerning the practice of pharmacy and authorizes pharmacists to provide access to and administration of oral contraceptives. The Arkansas State Board of Pharmacy shall adopt screening assessment procedures and questionnaires to be used by pharmacists throughout the state. (Pilkington, Rep.)

DEPARTMENT OF HUMAN SERVICES

Act 780: This Act promotes integrity in welfare programs and amends the Medicaid eligibility verification system. Except when prohibited by federal law, the Department

of Human Services shall adopt the statutorily outlined procedures to verify eligibility for participation in the Supplemental Nutrition Assistance Program or for receipt of Supplemental Nutrition Assistance Program benefits. The Department shall further adopt, except when prohibited by federal law, the statutorily outlined procedures to verify Medicaid eligibility for participation in the Arkansas Medicaid Program or receipt of benefits in the Arkansas Medicaid Program. (Flippo, Sen.)

DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES

Office of Personnel Management

Act 379: This Act creates the Arkansas Public Service Internship Program, establishes extra help positions for the Arkansas Public Service Internship Program, and amends the law concerning the Department of Finance and Administration Internship Program. The Office of Personnel Management shall issue a policy establishing the Program and shall issue a policy for a state agency's use of a pool position authorized by Ark. Code Ann. § 21-5-225(d)(1). The Office shall further develop a curriculum and activities to introduce graduate students and undergraduate students participating in the Program to the responsibilities and operations of all cabinet-level departments and branches of state government. (Wallace, D., Sen.)

INDEPENDENT NON-CABINET LEVEL DEPARTMENTS

STATE BOARD OF FINANCE

Act 1004: This Act abolishes the State and Public School Life and Health Insurance Board, transfers the duties of the State and Public School Life and Health Insurance Program to the State Board of Finance, amends the duties of the State Board of Finance, and amends the state entities transferred to the Department of Transformation and Shared Services. It is the purpose of Arkansas Code Title 21, Chapter 5, Subchapter 4, to direct the State Board of Finance to develop the policies, guidance, and directives to the State and Public School Life and Health Insurance Program and to select and offer life and health insurance plan options under the Program to participants. (Hickey, Sen.)

GENERAL, AGENCY NOT SPECIFIED

***Act 711:** This Act defines and clarifies reciprocal service credit among the public employment retirement systems generally and amends the law concerning reciprocal service credit. In accordance with the law applicable to a retirement system, the board of trustees of each retirement system shall establish the eligibility requirements for a member to receive a monthly retirement benefit or deferred retirement option plan, if

available, for service credit earned under their respective retirement system.
(Warren, Rep.)

Act 747: This Act concerns critical incident debriefing for law enforcement officers. A law enforcement agency shall adopt a policy that may require a law enforcement officer who has been involved in a critical incident to participate in a debriefing by a mental health professional or a certified peer support member as defined under Ark. Code Ann. § 16-40-106 and shall require the law enforcement agency to assist a law enforcement officer who has been involved in a critical incident in obtaining additional services that may assist the law enforcement officer in recovering from psychological effects resulting from the critical incident. (Richardson, Rep.)

ADVISORY COUNCILS

EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

Act 827: This Act authorizes emergency medical services personnel to administer certain emergency prescription medications to a patient who has a specific health condition, allows participation in care coordination by emergency medical services, and ensures appropriate transport of a patient who has a specific health condition. The Emergency Medical Services Advisory Council shall establish standards for: emergency medical services personnel to communicate with patients and caregivers of patients who are diagnosed with a specific health condition about the patient's specific health condition, the likelihood that the patient will need emergency medical services, and the collaborative development of emergency medical service care plans to meet the patient's needs; and local emergency medical services entities, which may include or be emergency medical services boards established under Ark. Code Ann. § 14-266-105(a)(3), to participate in care coordination for patients who are diagnosed with a specific health condition. (Johnson, L., Rep.)

ARKANSAS LEGISLATIVE COUNCIL

Officers

Senator Terry Rice
Senate Co-Chair

Representative Jeff Wardlaw
House Co-Chair

Senator Missy Irvin
Senate Co-Vice Chair

Representative Jim Dotson
House Co-Vice Chair



Marty Garrity
Executive Secretary

Room 315, State Capitol Building
Little Rock, AR 72201

Tel: 501-682-1937
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July 13, 2021

Senator Kim Hammer
Senate Co-Chair
ALC Administrative Rules Review Section
via email

Representative Les Eaves
House Co-Chair
ALC Administrative Rules Review Section
via email

Dear Co-Chairs:

This letter is to notify you that, pursuant to Act 1258 of 2015, the Executive Subcommittee met on July 1, 2021 to consider the request from the Arkansas Department of Commerce to review and approve the following emergency rule:

- ***Arkansas Department of Commerce: Emergency Addendum to Arkansas Rural Connect Coronavirus Rule.***

A copy of the emergency rule is attached for your information.

The emergency rule was reviewed and approved, and the review and approval was effective at 12:01 a.m. on Saturday, July 3, 2021.

Respectfully,

A handwritten signature of Senator Terry Rice in black ink.

Senator Terry Rice
Senate Co-Chair
Executive Subcommittee

A handwritten signature of Representative Jeff Wardlaw in black ink.

Representative Jeff Wardlaw
House Co-Chair
Executive Subcommittee

TR/JW:sla

Attachment

cc: Ms. Jessica Whittaker, Administrator, Administrative Rules and Regulations Review Section
via email