

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

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**December 21, 2012**

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Co-Chairs:

The Subcommittee on Administrative Rules and Regulations met at 9:30 a.m. on Wednesday, December 12, 2012, in Room 171 of the State Capitol. The following committee members attended: Senator Percy Malone, Co-Chair; Representative James L. Word, Co-Chair; Senator Randy Laverty, Vice Co-Chair and Representative Jonathan Barnett, Vice Co-Chair; Senators Mary Anne Salmon and Jimmy Jeffress; Representatives Tommy Lee Baker, Toni Bradford, Kelley Linck, Terry Rice, Johnnie Roebuck, and Randy Stewart. Other legislators attended as follows: Senators Joyce Elliott, Stephanie Flowers, David Johnson, Gilbert Baker, Jonathan Dismang, Gene Jeffress, and Bill Sample; Representatives Jim Nickels, Henry "Hank" Wilkins IV, Lori Benedict, John Burris, Linda Collins-Smith, Gary Deffenbaugh, Jody Dickinson, Justin Harris, Sheilla Lampkin, Stephanie Malone, Tracy Pennartz, James Ratliff, Mary Slinkard, Garry Smith, Tim Summers, Fred Allen, and Tommy Wren. Representatives-Elect Charlotte Douglas and John Hutchison also attended.

- 1. At its November 5, 2012 meeting, the Administrative Rules and Regulations Subcommittee referred the following rules to the Senate Interim Committee on Education and the House Interim Committee on Education.**

**DEPARTMENT OF EDUCATION (Mark White)**

- a. Educator Licensure and Proposed Repeals**
- b. Repeal of Arkansas Department of Education Rules Governing Waivers for Substitute Teachers**

**The Education Committees met on November 26, 2012 and December 10, 2012. Representative Roebuck presented the committees' report (attached), and the report was adopted by the Administrative Rules and Regulations Subcommittee.**

**The Subcommittee then passed a motion by Representative Roebuck to allow the Department of Education to pull down its proposed Educator Licensure Rule because the Department of Education is pursuing and re-promulgating an amended Educator Licensure Rule, and the Board of Education has approved such rule on an emergency basis. The revised rules will be presented to the Administrative Rules and Regulations Subcommittee at a later date.**

**The Repeal of the Department of Education's Rule Governing Waivers for Substitute Teachers was subsequently reviewed by the Administrative Rules and Regulations Subcommittee.**

- 2. At its March 14, 2012 meeting, the Administrative Rules and Regulations Subcommittee referred the following rule to the Senate Interim Committee on Public Health, Welfare and Labor and the House Interim Committee on Public Health, Welfare and Labor:**

**STATE BOARD OF DENTAL EXAMINERS (Kevin Odwyer)**

- a. Amendment to Article XI Governing the Functions of a Dental Hygienist**

**The Public Health Committees met on December 11, 2012 to review the rule. Senator Malone presented the committees' report (attached). The report was adopted, and the rule was subsequently reviewed by the Administrative Rules and Regulations Subcommittee.**

- 3. The following rule was presented to the Administrative Rules and Regulations Subcommittee:**

**STATE BOARD OF NURSING (Sue Tedford, Fred Knight)**

- a. Proposed Changes to the ASBN Rules: Chapters One, Two, Three, Four, and Six, and the Nurse Practice Act**

**Ms. Tedford and Mr. Knight of the State Board of Nursing advised the Subcommittee that the Board intends to make changes to Chapter 6 that would remove any references on affiliation agreements for nursing programs in the state. The Subcommittee then reviewed the rules, including the anticipated revision to Chapter 6 as requested by the Board of Nursing.**

- 4. The following rules were deferred to the December 18, 2012 Administrative Rules and Regulations Subcommittee meeting:**

**DEPARTMENT OF CAREER EDUCATION, ADULT EDUCATION DIVISION**

- a. Permanent Proposed Rule for Adult Education Funding Formula Effective July 1, 2013**

**ARKANSAS TEACHER RETIREMENT SYSTEM**

- a. Rule 11-1; Survivor Benefits**

5. The subcommittee reviewed the following rules filed pursuant to Ark. Code Ann. §10-3-309.

**STATE BOARD OF EXAMINERS OF ALCOHOLISM AND DRUG ABUSE  
COUNSELORS (Rob Covington, Pam Fite)**

- a. Rules Governing Examiners of Alcoholism and Drug Abuse Counselors

**CAPITOL ZONING DISTRICT COMMISSION (Boyd Maher)**

- a. Emergency Revisions to Rehabilitation Standards for Historic Properties  
b. Revisions to Capitol Zoning District Master Plan

**DEPARTMENT OF CAREER EDUCATION, ADULT EDUCATION DIVISION  
(Jim Smith)**

- a. Permanent Proposed Funding Rule 2012-2013

**DEPARTMENT OF CAREER EDUCATION, ARKANSAS REHABILITATION  
SERVICES (Randy Parker, Jonathan Bibb)**

- a. ARS Establishment Policy

**STATE BOARD OF DENTAL EXAMINERS (Kevin Odwyer)**

- a. Article VIII § A. 6; Requirement for Licensure Clinical Examination of a Dentist

**ARKANSAS DEVELOPMENT FINANCE AUTHORITY (Mac Dodson, Sara Oliver)**

- a. 2013 Housing Credit Program Qualified Allocation Plan  
b. Compliance Monitoring Policies and Procedures Manual for the Low Income Housing Tax Credit Program  
c. 2013 Multifamily Housing Minimum Design Standards  
d. 2012 HOME Program Policy and Operations Manual

**DEPARTMENT OF EDUCATION (Mark White)**

- a. Repeal of Rules and Regulations on Arkansas Compulsory Attendance Requirements

- b. Arkansas Comprehensive Testing, Assessment and Accountability Program and the Academic Distress Program**
- c. Consolidation and Annexation of School Districts**
- d. Code of Ethics for Arkansas Educators**

**DEPARTMENT OF ENVIRONMENTAL QUALITY, SOLID WASTE  
MANAGEMENT DIVISION (Karen Bassett)**

- a. Regulation No. 11: Solid Waste Management Fees, Funds, and Grants**

**DEPARTMENT OF ENVIRONMENTAL QUALITY, WATER DIVISION  
(Ryan Benefield)**

- a. Regulation No. 6; Regulations for State Administration of National Pollutant Discharge Elimination System (NPDES)**

**FAULKNER COUNTY SOLID WASTE MANAGEMENT DISTRICT  
(Preston Scroggin)**

- a. Rules and Regulations of the Faulkner County Solid Waste Management District**

**DEPARTMENT OF FINANCE AND ADMINISTRATION, ARKANSAS RACING  
COMMISSION**

- a. Rule 1271; Pre-race Physical Examination of Horses**
- b. Rule 2117; Owners and Trainers**
- c. Rule 2433; Claiming**
- d. Rule 2434(i); Claiming**
- e. Rule 2435; Claiming**
- f. Greyhound Rule 3161**

**DEPARTMENT OF HEALTH, PUBLIC HEALTH LABS (Robert Brech)**

- a. Regulations for Alcohol Testing**

**DEPARTMENT OF HIGHER EDUCATION (Shane Broadway, Cynthia Moten)**

- a. Rules for Institutional and Program Certification**

**DEPARTMENT OF HUMAN SERVICES, CHILDREN AND FAMILY SERVICES (Christin Harper)**

- a. **Removal of Requirement to Collect W-9s from Foster and Adoptive Parents**
- b. **Clarifications Regarding Subsidized Guardianship Policy**
- c. **Updates to Division Overview and General Provisions**
- d. **Updates to Investigation Procedures**
- e. **Revisions to Internal Review of Adverse Action and Appeals and Hearings of Unfavorable Decisions**
- f. **Early Intervention Services and Referrals**
- g. **Differential Response Clarifications**

**DEPARTMENT OF HUMAN SERVICES, BEHAVIORAL HEALTH SERVICES (Breck Hopkins)**

- a. **Rehabilitative Services for Persons with Mental Illness (RSPMI) Provider Certification Amendment 3**

**DEPARTMENT OF HUMAN SERVICES, AGING AND ADULT SERVICES (Connie Parker)**

- a. **Attendant Care for a Beneficiary of the Alternatives for Adults with Physical Disabilities Medicaid Waiver Program**

**DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES (Marilyn Strickland)**

- a. **AAPDWVR-1-12; Alternatives for Adults with Physical Disabilities (AAPD) Waiver Application**
- b. **ELDER-1-11; ElderChoices Waiver Application**
- c. **LCAL 1-12 and Section V 8-12; Living Choices Assisted Living Waiver Application**
- d. **INCHOICE-1-11 and State Plan Amendment #2012-009; Independent Choices**
- e. **PERSCARE 2-11; Personal Care**

- f. Program of All Inclusive Care for the Elderly (PACE); 2-12**
- g. Hospice-2-11 and Arkansas State Plan Amendment #2012-004; Hospice Concurrent Care for Children in Medicaid and the Children's Health Insurance Program (CHIP)**
- h. Therapy-1-12**

**ARKANSAS INSURANCE DEPARTMENT (Booth Rand)**

- a. Rule 84: Prepaid Funeral Benefits Contracts Recovery Fund Fees**
- b. Rule 101: Prohibition on the Use of Discretionary Clauses in Disability Income Policies**

**STATE MEDICAL BOARD (Kevin Odwyer, Peggy Cryer)**

- a. Regulation 10; Licensing and Practice of Respiratory Care Practitioners**

**OIL AND GAS COMMISSION (Lawrence Bengal)**

- a. General Rule B19; Requirements for Well Utilizing Hydraulic Fracture Completion**

**COMMISSION FOR PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION (Mark White, Mike Simmons)**

- a. Specifications Governing School Bus Design**

**ARKANSAS REAL ESTATE COMMISSION (Gary Isom, Jim Newell)**

- a. Real Estate Auction Definitions and Requirements**

**ARKANSAS SEX OFFENDER ASSESSMENT COMMITTEE (Bobby G. Smith, Wendy Kelley)**

- a. Sex Offender Assessment Committee Guidelines**

**DEPARTMENT OF WORKFORCE SERVICES (Roger Harrod)**

- a. Notice of Claims Filed and Benefits Charged, Employer Response, and Noncharge Rights**

## **December 18, 2012 Meeting**

The Subcommittee on Administrative Rules and Regulations met at 10:00 a.m. on Tuesday, December 18, 2012, in Room 171 of the State Capitol. The following committee members attended: Senator Percy Malone, Co-Chair; Representative Jonathan Barnett, Vice Co-Chair; Senator Jimmy Jeffress; Representatives Jonathan Barnett, Kelley Linck, Johnnie Roebuck, and Randy Stewart. Other legislators attended as follows: Senators Bill Sample and Larry Teague; Representatives Nate Bell, David Branscum, Justin Harris, Andrea Lea, and Jim Nickels.

1. **The following rule which was deferred to the December 18, 2012 meeting of the Administrative Rules and Regulations Subcommittee was reviewed:**

### **ARKANSAS TEACHER RETIREMENT SYSTEM (George Hopkins)**

- a. **Rule 11-1; Survivor Benefits**

2. **The following rule which was deferred to the December 18, 2012 meeting of the Administrative Rules and Regulations Subcommittee was presented:**

### **DEPARTMENT OF CAREER EDUCATION, ADULT EDUCATION DIVISION (Bill Walker, Jim Smith)**

- a. **Permanent Proposed Rule for Adult Education Funding Formula Effective July 1, 2013**

**No action was taken. Upon Senator Malone's recommendation, the Subcommittee reserved the right to consider the rule at a special meeting before the end of the year if circumstances warranted.**

3. **Upon suspension of the rules, the following rule was reviewed:**

### **SOUTHEAST ARKANSAS REGIONAL SOLID WASTE MANAGEMENT BOARD (A. C. Armstrong, Glenn Bell)**

- a. **Solid Waste Assessment, Chapter C**



**Respectfully submitted,**

**Senator Percy Malone, Co-Chair**

**Representative James Word, Co-Chair**



**ARKANSAS GENERAL ASSEMBLY**  
**HOUSE INTERIM COMMITTEE ON EDUCATION**  
and  
**SENATE INTERIM COMMITTEE ON EDUCATION**

Senator Jimmy Jeffress  
Senate Chair

Representative Eddie Cheatham  
House Chair

REPORT  
of the  
Joint Meeting of the  
Senate Interim Committee on Education and  
House Interim Committee on Education  
to the  
Administrative Rules and Regulations Subcommittee  
of the Arkansas Legislative Council

December 12, 2012

Senator Percy Malone, Senate Chair  
Representative James Word, House Chair  
Administrative Rules and Regulations Subcommittee  
Arkansas Legislative Council

Chairman Malone and Chairman Word:

At its meeting on November 5, 2012, the Administrative Rules and Regulations Subcommittee of the Arkansas Legislative Council referred the following proposed rules from the Arkansas Department of Education (ADE) to the Senate Interim Committee on Education and House Interim Committee on Education:

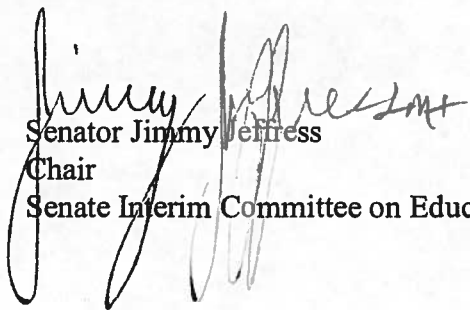
- Educator Licensure and Proposed Repeals
- Repeal of Arkansas Department of Education Rules Governing Waivers for Substitute Teachers

At a joint meeting on November 26, 2012, the Senate Interim Committee on Education and the House Interim Committee on Education heard a presentation by the ADE regarding the ADE's Proposed Rules Concerning Educator Licensure and Proposed Repeals. Following examination of the proposed rule, discussion by the Committees, and testimony from representatives of the ADE, this is to advise that the Committees adopted a motion to review the rule, with the specific exception of Section 4.0, which dealt with Ancillary Licensure Requirements (School Psychology, Speech Language Pathology, and School Counseling). Although the ADE's proposed Repeal of Arkansas Department of Education Rules Governing Waivers for Substitute Teachers was scheduled to be discussed at the November 26<sup>th</sup> meeting, circumstances necessitated deferral of consideration of this rule until the Committees' December 10, 2012, meeting.

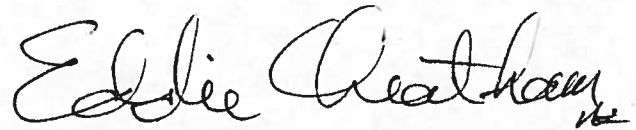
Senator Percy Malone  
Representative James Word  
December 12, 2012  
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At a joint meeting on December 10, 2012, the Senate Interim Committee on Education and the House Interim Committee on Education heard a presentation by the ADE regarding the ADE's Proposed Repeal of Arkansas Department of Education Rules Governing Waivers for Substitute Teachers. Following examination of the proposed rule, discussion by the Committees, and testimony from representatives of the ADE, this is to advise that the Committees adopted a motion to review the proposed rule.

Respectfully submitted,



Senator Jimmy Jeffress  
Chair  
Senate Interim Committee on Education



Representative Eddie Cheatham  
Chair  
House Interim Committee on Education

REPORT  
OF THE  
SENATE & HOUSE COMMITTEE ON PUBLIC HEALTH, WELFARE & LABOR

TO THE  
ADMINISTRATIVE RULES AND REGULATIONS COMMITTEE  
OF THE ARKANSAS LEGISLATIVE COUNCIL

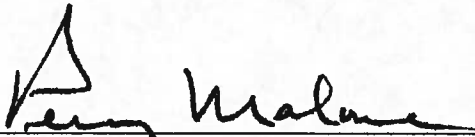
December 11, 2012

Senator Percy Malone, Chair  
Representative James Word, Chair  
Administrative Rules & Regulations Committee,  
Arkansas Legislative Council

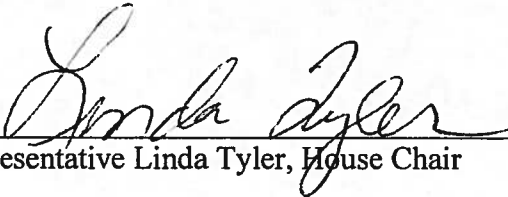
Mr. Chairmen:

At the meeting on December 11, 2012, the Senate & House Committee on Public Health, Welfare & Labor reviewed a proposed rule by the State Board of Dental Examiners. The rule allows a dentist to delegate the application of fissure sealants to other dental personnel in the office, and not just dental hygienists.

Respectfully Submitted,



Senator Percy Malone, Senate Chair



Representative Linda Tyler, House Chair