

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

January 15, 2010

Mr. Co-Chairmen:

The Administrative Rules and Regulations Committee met at 9:00 a.m. on Monday, January 11, 2010, in Room 151 of the State Capitol. The following committee members attended: Senator Percy Malone, Co-Chair and Representative Mike Burris Co-Chair; Representative George Overbey, Jr., Vice Co-Chair; Senators Kim Hendren and Cecile Bledsoe; Representatives Stephanie Flowers, Monty Davenport, Ray Kidd, David Dunn and Johnny Roebuck. Other legislators attended as follows: Senators David Wyatt; Representatives Uvalde Lindsey, Buddy Lovell, Garry L. Smith, Billy Gaskill, Curren Everett, Barbara Nix, Mark Martin, Randy Stewart, Jane English, Jody Dickinson, Richard Carroll, Johnny Hoyt, Mike Patterson, David Cook, and Eddie Cooper.

1. The Committee completed its review of the following rules filed pursuant to A.C.A. § 10-3-309:

ARKANSAS AUCTIONEERS LICENSING BOARD (Kristy Arnold, Amy Ford)

- a. Revisions to Rules & Regulations

STATE BOARD OF DENTAL EXAMINERS (Bill Trice)

- a. Article XVIII; Mobile Dental Facility Regulations

DEPARTMENT OF EDUCATION (Tripp Walter, Alice Barnes Rose, Bill Goff)

- a. Access to Public School Information on Comprehensive School Improvement Plans
- b. Calculations of Miscellaneous Funds
- c. Professional Development

ARKANSAS EMERGENCY TELEPHONE SERVICES BOARD (Paul Stricklin)

- a. ETS Board Rules

DEPARTMENT OF ENVIRONMENTAL QUALITY (Karen Bassett, Mike Porta)

- a. Regulation 33; Motor Vehicle Racing Facility Regulations

DEPARTMENT OF ENVIRONMENTAL QUALITY, AIR DIVISION (Karen Bassett, Mike Porta)

- a. Regulation No. 18; Air Pollution Control Code

DEPARTMENT OF ENVIRONMENTAL QUALITY, HAZARDOUS WASTE DIVISION (Ryan Benefield)

- a. Regulation No. 23; 2009 Hazardous Waste Management Annual Update

DEPARTMENT OF FINANCE AND ADMINISTRATION, ARKANSAS RACING COMMISSION (Byron Freeland, Bryan Oliver)

- a. Instant Racing Rule 2489 (A); Instant Double with Extended Bonus Game
- b. Instant Racing Rule 2489(B); #5 Bonus Game "Mix and Match"
- c. EGS Rule 24; Technical Specifications
- d. EGS Rule 30; Client-Server Systems Standards
- e. Greyhound Rule 3190; Double Entries
- f. Greyhound Rule 5075; Cancellation of Jackpot Pool Wagers
- g. Rule 1218(b); External Non-Invasive Treatment of Horses
- h. Rule 1214; Pre-Race External Treatments under Rule 1218(b) not Prohibited
- i. Rule 2128 ; Possession of Electrical or Mechanical Appliances for Use on Horse
- j. Rule 2212; Entry
- k. Rule 2221
- l. Thoroughbred Rule 2260; Purse Distribution
- m. Thoroughbred Rule 2419

DEPARTMENT OF HEALTH, CENTER FOR LOCAL PUBLIC HEALTH, ENGINEERING SECTION (Robert Hart)

Public Water Systems

DEPARTMENT OF HEALTH, CENTER FOR HEALTH PROTECTION, LICENSING AND REGULATION BRANCH, COSMETOLOGY SECTION (Renee Mallory)

- a. Rules and Regulations for Cosmetology in Arkansas

DEPARTMENT OF HEALTH, HEALTH FACILITIES SERVICES (Connie Melton, Jane Gaskill)

- a. Conducting Criminal History Records Checks for Home Health, Hospice, and Private Care Agencies in Arkansas
- b. Home Health Agencies in Arkansas
- c. Hospice in Arkansas
- d. Private Care Agencies in Arkansas
- e. Orthotic, Prosthetic, and Pedorthic Providers in Arkansas

DEPARTMENT OF HEALTH, PHARMACY SERVICES AND DRUG CONTROL (Jerry Jones)

- a. List of Controlled Substances

DEPARTMENT OF HEALTH, RADIATION CONTROL (Bernard Bevill)

- a. Radiologic Technology Licensure

DEPARTMENT OF HUMAN SERVICES, BEHAVIORAL HEALTH SERVICES (Jeff Wood)

- a. RSPMI Provider Certification Amendment 1

DEPARTMENT OF HUMAN SERVICES, SERVICES FOR THE BLIND

- a. Vendor Operating Procedures Policy

DEPARTMENT OF HUMAN SERVICES, FINANCE AND ADMINISTRATION (Charlene Young-Hauser, Krista Hughes, Jeff Wood)

- a. DHS Sub-Grant Policy
- b. Form #9571; Notification of Nursing Facility Admission
- c. DHS Policy #1088; Participant Exclusion Rule
- d. Social Services Block Grant Program Manual (SSBG)
- e. DHS Social Services Block Grant Pre-Expenditure Report

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES (Jeff Wood, Rosemary Edgin)

- a. ICF/MR 16 Bed and Over Private Facilities Enhanced Care Add-On (SPA #2009-017)
- b. ICF/MR Under 16 Bed Enhanced Care Add-On (SPA #2009-016)
- c. Official Notice DMS-2009-A-3, DMS-2009-AR-2, DMS-2009-G-2, DMS-2009-II-3, DMS-2009-L-3, DMS-2009-KK-2, DMS-2009-R-3, DMS-2009-OO-2; Vaccines for Children Program (VFC)
- d. Section I Update of All Medicaid Manuals; Primary Care Case Management Fee
- e. Occupational, Physical and Speech Therapy Services Provider Manual Update #108; Physician/Independent Lab/Radiation Therapy Center #165; Rehabilitative Hospital #108; Hospital/Critical Access Hospital (CAH)/End Stage Renal Disease (ESRD) #152; Developmental Day Treatment Clinic Services (DDTCS) #119; Child Health Medical Services #116
- f. Child Health Management Services Provider Manual Update #122; Section V Update: Forms DMS-201 and DMS-202
- g. Section V (8-1-09); DMS 840 Form

DEPARTMENT OF LABOR, BOARD OF ELECTRICAL EXAMINERS (Daniel Faulkner)

- a. 010.13 Administrative Regulations of the Board of Electrical Examiners

NATURAL RESOURCES COMMISSION (Randy Young, Crystal Phelps)

- a. Title 13; Tax Credit Program for Private Wetlands and Riparian Zones

DEPARTMENT OF PARKS AND TOURISM, STATE PARKS DIVISION (Greg Butts)

- a. Search Area for Crater of Diamonds

2. **A brief discussion was held on whether the State Board of Public Accountancy may have violated the Freedom of Information Act, based on earlier testimony to the committee, that a "rules subcommittee" of the board met prior to the board's public hearing on recent amendments to its rules. Ms. Leveta Ray of the board said that she misspoke and that only one member of the board reviewed the comments in advance of the board meeting. The other member's term had expired and therefore did not**

participate. The committee was concerned about this prior testimony since, if two board members meet, a public notice is required.

3. **On the Department of Education's rule on Professional Development, the department indicated that they would make a change on section 3.12 which "provides clarification for the term 'illness' to mean disorder of health of an educator or an educator's immediate family (§ 6-27-1202) that is verified by a written sworn statement of the attending physician" to clarify that "a written sworn statement of the attending physician" simply means a doctor's excuse.**
4. **In discussing the Department of Health, Health Facilities Services rule titled "Criminal Record Checks for Employees and Operators of Home Health, Hospice and Private Care Agencies," the committee noted a public comment on Section IV, Evidence of Criminal History Record Checks. The comment indicated that the language in Act 762 of 2009 specifies that only applicants to which the agency intends to make an offer of employment must have a background check completed. The comment suggested that the clarification could be accomplished by adding the following definition of "Applicant" in Section III: "Applicant means an individual to whom a service provider intends to make an offer of employment for a position which meets the definition of an Employee as defined in this section." The committee recommended that this change be made, and that the same change be made to the rules concerning criminal history record checks for home health and hospice agencies.**
5. **The Department of Higher Education's rule titled "Arkansas Academic Challenge Scholarship Program" will be reconsidered at the committee's February 4, 2010 meeting after the Legislative Lottery Oversight Committee reassesses the rule at its January 21, 2010 or subsequent meetings.**
6. **Upon the agency's request, the Department of Human Services, Medical Services Division rule titled "ARKids First B Provider Manual Update #85" was not considered.**

Respectfully submitted,

Senator Percy Malone

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Representative Mike Burris

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