



Arkansas Department of Health

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Governor Sarah Huckabee Sanders

Renee Mallory, RN, BSN, Secretary of Health

Jennifer Dillaha, MD, Director

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Senator Kim Hammer, Co-Chair
Representative Brian Evans, Co-Chair
Administrative Rules Subcommittee
Arkansas Legislative Council
via Rebecca Miller-Rice (email miller-ricer@blr.arkansas.gov)

Dear Co-Chairs,

First, pursuant to Ark. Code Ann. § 25-15-216(b)(4), please consider the following Arkansas Department of Health (ADH) Division of Health-Related Boards and Commissions update on rulemaking resulting from Acts of 2023. Arkansas law requires that each rule be promulgated by the specific Board or Commission, which meet at various times of the year. Various regulatory boards under the ADH Division of Health-Related Boards and Commissions are now drafting and amending rules specifically required due to legislation from the 2023 session. Please find a summary of the Boards' efforts made thus far below.

Arkansas State Board of Nursing

Act 672 of 2023 establishes nursing earn-to-learn programs and authorizes a nursing student to earn direct patient care clinical credit hours for working in a healthcare facility in certain jobs. The nursing program and the healthcare facility shall establish boundaries and expectations of the senior-level nursing student based on accreditation standards and rules of the Arkansas State Board Nursing. The ADH's Arkansas State Board of Nursing (ASBN) drafted rule changes to comply with the Act. The ASBN is seeking public comment on the proposed changes and will continue the promulgation process.

The Arkansas Department of Health Division of Health-Related Boards and Commissions will continue to provide updates on rulemaking. If there are changes or additional updates identified, the ADH will provide further information in these updates as submitted to the Administrative Rules Subcommittee. Please let me know if you have questions or need additional information.

Second, pursuant to Ark. Code Ann. § 25-15-216 (b)(4), please also consider the following Arkansas Department of Health (ADH) and State Board of Health update on rulemaking resulting from Acts of 2023. The State Board of Health meets quarterly each year and ADH has drafted proposed amendments to rules and proposed repeal of rules to implement new laws. As evidenced below, ADH and the Board will continue the rule promulgation process outlined in the Administrative Procedure Act, including the public notice and comment period, followed by the

Legislative review and approval process under Ark. Code Ann. § 10-3-309, prior to filing the final rules.

Controlled Substances List

Act 629 of 2023 amended Ark. Code Ann. § 5-64-215, Substances in Schedule VI, which are also listed in the Controlled Substances List. To the extent that the proposed changes to the list contain references to implement Act 629 of 2023, the enforcement of the Act is enjoined by a federal court as of September 7, 2023. On October 26, 2023, the Board of Health approved the remaining list of substances moving forward with the promulgation process to file the final rule with a notation that the portion of the list referencing specific changes resulting from Act 629 of 2023 was enjoined from enforcement. After a public comment period and public comment hearing, a revised rule was presented for review in the Public Health Committee on February 29, 2024. If approved by the ALC-Rules Subcommittee and ALC, the final rule will be filed with the Secretary of State.

Sanitarians, Septic Tank Cleaners, and Water Operator Licensing

Act 137 of 2023 required modification to certain occupational rules, specifically amendments to the rules addressing the automatic licensure requirements for uniformed service members. Act 457 of 2023 provided for automatic licensure for out-of-state licensees. The Board of Health approved these rules on October 26, 2023. After the public comment periods, the Department presented these three rules to the Public Health Committee on February 29, 2024. If approved by the ALC-Rules Subcommittee and ALC, the final rules will be filed with the Secretary of State.

Health Systems Licensing

Several Health Systems Rules that follow were approved by the Board of Health on October 26, 2023, and the Department is completing the required public comment period.

For the Rules Pertaining to Hospitals and Related Institutions in Arkansas and Rules for Critical Access Hospitals in Arkansas, the proposed amendments include provisions to comply with 2023 Acts as follows:

- Provide for Pharmacy Continuity of Care Endorsement (Act 233)
- Require posting of notice that attacking a healthcare professional is a felony (Act 313)
- Require hospitals to comply with federal hospital pricing transparency regulations (Act 482)
- Require hospitals to comply with the abortion right-to-know-and-see-act (Act 559)
- Amend the no-patient-left-alone provision regarding clergy members (Act 716)
- Amend the patient right-to-know regarding licensure of a healthcare provider (Act 830)

- Clarify that the performance of an abortion to save the life of a pregnant woman in a medical emergency may be performed only in a hospital or emergency room (Act 848).

For the Rules for Free Standing Birthing Centers in Arkansas, the proposed amendments include the following provisions to comply with Acts 313, 830, and 848 of 2023:

- Require posting of notice that attacking a healthcare professional is a felony (Act 313)
- Amend the patient right-to-know regarding licensure of a healthcare provider (Act 830)
- Clarify that the performance of an abortion to save the life of a pregnant woman in a medical emergency may be performed only in a hospital or emergency room (Act 848).

For the Rules for Hospices Agencies in Arkansas, the proposed amendments comply with Acts 70, 313, 716, and 830 of 2023 as follows:

- Amend the aide training requirements to include Alzheimer's disease and dementia (Act 70)
- Require posting of notice that attacking a healthcare professional is a felony (Act 313)
- Amend the no-patient-left-alone provision regarding clergy members (Act 716)
- Amend the patient right-to-know regarding licensure of a healthcare provider (Act 830).

For the Rules for Home Health Agencies and the Rules for Private Care Agencies, the proposed amendments comply with Acts 70, 313, and 830 of 2023, as follows:

- Amend the aide training requirements to include Alzheimer's disease and dementia (Act 70)
- Require posting of notice that attacking a healthcare professional is a felony (Act 313)
- Amend the patient right to know regarding licensure of a healthcare provider (Act 830).

In closing, the Arkansas Department of Health, the Division of Health-Related Boards and Commissions, and the State Board of Health will continue to provide updates on rulemaking. If there are changes or additional updates identified, the ADH will provide further information in these updates as submitted to the Administrative Rules Subcommittee. Please let us know if you have questions or need additional information.

Sincerely,



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