EXHIBIT J

DEPARTMENT OF HEALTH, HEALTH FACILITY SERVICES

SUBJECT: Rules for Critical Access Hospitals

DESCRIPTION: The Rules for Critical Access Hospitals are being amended as follows:

Updated throughout to remove the term "regulation" in accordance with Act 315 of 2019.

Rule 3(A): Add definition of "abortion complication" to comply with Act 620 of 2019.

Rule 8(D)(2): Update TB language to standardize across all types of health care facilities. The same language was previously promulgated in Rule 18(A)(5)(h).

Rule 9(D): Add abortion complication reporting requirement to comply with Act 620 of 2019.

Rule 9(E): Add reporting requirement for transfers from lay midwives to comply with Act 977 of 2019.

Rule 43(G)(2)(a)(8), (G)(3)(a)(5): Add option for compliance certification by licensed architect or professional engineer in compliance with Act 889 of 2019.

PUBLIC COMMENT: A public hearing was held on this rule on September 3, 2020. The public comment period expired September 3, 2020. The agency provided the following summary of the public comments it received and its responses to those comments.

Commenter's Name: Josephine M. Colacci, Director of Government Affairs, International Association of Healthcare Central Service Material Management

SUMMARY OF COMMENT: Section 34(B), Specialized Services: Central Sterilization and Supply

The central sterilization and supply service shall be under the direct supervision of a Registered Nurse or a person who has successfully passed a nationally accredited central service exam for central service technicians and holds and maintains at least one of the following credentials (1) the certified registered central service technician credential; or (2) the certified sterile processing and distribution technician credential.

RESPONSE: The current proposal did not contain any changes to §34 "Central Sterilization and Supply." A more comprehensive revision is expected to begin once the current proposal is complete. The comment will carry forward as a suggested language for the next revision. The commenter was so notified by the Agency on 082720.

Commenter's Name: Paul Acre

SUMMARY OF COMMENT: Suggestions regarding language for physical facilities and fire walls.

RESPONSE: The current proposal did not contain any changes to the physical facility portions. A more comprehensive revision is expected to begin once the current proposal is complete. The comments will carry forward as a suggested language for the next revision. The commenter was so notified by the Agency on 090820.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

QUESTION: I see the abortion complications reporting requirement in Section 9(D), but the rule summary says a definition of "abortion complication" was added to Section 3(A). The proposed rules don't have that definition. Is the rule summary or the proposed rules redline correct regarding the added definition? **RESPONSE:** [The agency provided an updated copy of the rules containing the referenced definition.]

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule does not have a financial impact.

LEGAL AUTHORIZATION: The Arkansas Department of Health, Division of Health Facilities Services has the authority to inspect, regulate, and license hospitals and institutions. Ark. Code Ann. § 20-9-204(b)(3). The Department may promulgate rules as necessary to accomplish the purposes of Ark. Code Ann. §§ 20-9-201 to -223, which relate to health facilities services. Ark. Code Ann. § 20-9-205(b). These rules implement Acts 620, 889, and 977 of 2019.

Act 620, sponsored by Senator Trent Garner, required additional reporting requirements by certain physicians and healthcare facilities for abortion complications. The Act required such reports to "[b]e submitted in the form and manner prescribed by rule of the department[.]" Ark. Code Ann. § 20-16-605(c)(2)(A), *as created by* Act 620.

Act 889, sponsored by Senator Bart Hester, modernized plumbing plan review submissions and responses and clarified that local jurisdiction review of certain plumbing plans and specifications does not require review by the Department of Health.

Act 977, sponsored by Representative Deborah Ferguson, required reporting to the Department of Health of patient transfers from a lay midwife.

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Health
DIVISION Health Facility Services
DIVISION DIRECTOR Connie Melton, Branch Chief
CONTACT PERSON Becky Bennett, Section Chief
ADDRESS 5800 W. 10th Street, Suite 400, Little Rock, AR 72204
PHONE NO. (501) 661-2201 **FAX NO.** (501) 661-2165 **E-MAIL** rebecca.bennett@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Laura Shue, General Counsel
PRESENTER E-MAIL Laura.shue@arkansas.gov

INSTRUCTIONS

A. Please make copies of this form for future use.
B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
D. Rule" below.
E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

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1. What is the short title of this rule? Rules For Critical Access Hospitals (CAH)

2. What is the subject of the proposed rule? licensing standards for hospitals and related facilities in Arkansas

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ **No** ☑

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes ☐ **No** ☑

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes ☐ **No** ☐

5. **Is this a new rule? Yes☐ No☑ If yes, please provide a brief summary explaining the rule.**

Does this repeal an existing rule? Yes☐ No☑ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes☑ No☐ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

Added abortion complication definition; updated TB prevention language; reporting requirements for abortion complications; reporting of transfers of patients from the care of lay midwifes during labor and delivery; and option for compliance certification by licensed architect or professional engineer.

6. **Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.**

Ark. Code Ann. §§20-9-201 et seq., 20-7-123

7. **What is the purpose of this proposed rule? Why is it necessary?**

Mandated by 2019 Acts:
315 (strike "regulation");
620 (report abortion complications); and
977 (report transfers of patients from lay midwives during labor and delivery)

Non-mandated:
Updated TB language to Center for Disease Control standard
Certification of plans – optional Act 889 of 2019

8. **Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).**

www.healthy.arkansas.gov

9. **Will a public hearing be held on this proposed rule? Yes** ☑ **No** ☐ **If yes, please complete the following:**

Date: 09/03/2020

Time: 2:00 pm

Place: Freeway Medical Tower, Suite 801, 5800 W. 10th St., Little Rock, AR, 72204

10. **When does the public comment period expire for permanent promulgation? (Must provide a date.)**
09/03/2020

11. **What is the proposed effective date of this proposed rule? (Must provide a date.)**
11/01/2020

12. **Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.** _____

13. **Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e).** _____

14. **Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.**

NONE KNOWN

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health
DIVISION Health Facility Services
PERSON COMPLETING THIS STATEMENT Becky Bennett, Section Chief
TELEPHONE NO. (501) 661-2201 **FAX NO.** (501) 661-2165 **EMAIL:** rebecca.bennett@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules For Critical Access Hospitals (CAH)

1. **Does this proposed, amended, or repealed rule have a financial impact? Yes☐ No☑**

2. **Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes☑ No☐**

3. **In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes☑ No☐**

   If an agency is proposing a more costly rule, please state the following:

   a) **How the additional benefits of the more costly rule justify its additional cost;**

   b) **The reason for adoption of the more costly rule;**

   c) **Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and**

   d) **Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.**

4. **If the purpose of this rule is to implement a federal rule or regulation, please state the following:**

   a) **What is the cost to implement the federal rule or regulation?**

Current Fiscal Year		Next Fiscal Year	
General Revenue		General Revenue	
Federal Funds		Federal Funds	
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total	$ 0.00	Total	$ 0.00

   b) **What is the additional cost of the state rule?**

Current Fiscal Year		Next Fiscal Year	
General Revenue		General Revenue	
Federal Funds		Federal Funds	
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total	$ 0.00	Total	$ 0.00

5. **What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.**

Current Fiscal Year	Next Fiscal Year
$	$

6. **What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.**

Current Fiscal Year	Next Fiscal Year
$	$

7. **With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars ($100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?**
Yes ☐ No ☐

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and
(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
(a) the rule is achieving the statutory objectives;
(b) the benefits of the rule continue to justify its costs; and
(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

SUMMARY/INDEX
Rules for Hospitals and Related Institutions, AND
Critical Access Hospitals
(NOTE: section/page numbers may change in Critical Access Hospital rules)
070319

Section, page, and change	Source of specific authority with page & line or reason for change
Throughout Document	Act 315 of 2019
3(A) add definition of Abortion complication p. 3-1	Act 620 of 2019 Reporting abortion complications, p. 1, L.31, proposed as 20-16-605(a)(1)(A-B) (Act 620 requires reporting of abortion complications – see 9D below)
8(D)(2) update TB prevention language p. 8-1	Standardize TB prevention across all types of heath care facilities Note: same language previously promulgated - 18(A)(5)(h)
9(D) add abortion complication reporting requirement p. 9-1,2	Act 620 of 2019 Reporting Requirements for Abortion Complications
9 (E) add reporting requirement for transfers from lay midwives p. 9-2	Act 977 of 2019 requires reporting by licensed healthcare facilities transfers of patients from care of lay midwife during labor & delivery process
47(G)(2)(a)(8), (G)(4)(a)(5) Added option for compliance certification by licensed architect or professional engineer p. 47-6, 7	Act 889 of 2019 Plumbing Plan Review Submissions

Summary of Public Comments
Rules for Hospitals and Related Institutions in Arkansas; and
Rules for Critical Access Hospital (CAH) Rules

#	Received	Commenter	Comment	Agency Response
1	082620 written	Josephine M. Colacci, Esq. Director of Government Affairs IAHCSMM (International Association of Healthcare Central Service Materiel Management)	Section 34(B), Specialized Services: Central Sterilization and Supply The central sterilization and supply service shall be under the direct supervision of a Registered Nurse or a person who has successfully passed a nationally accredited central service exam for central service technicians and holds and maintains at least one of the following credentials (1) the certified registered central service technician credential; or (2) the certified sterile processing and distribution technician credential.	The current proposal did not contain any changes to §34 "Central Sterilization and Supply." A more comprehensive revision is expected to begin once the current proposal is complete. The comment will carry forward as a suggested language for the next revision. The commenter was so notified by the Agency on 082720.
2	090820 written (2) items	Paul Acre	Suggestions regarding language for physical facilities and fire walls.	The current proposal did not contain any changes to the physical facility portions. A more comprehensive revision is expected to begin once the current proposal is complete. The comments will carry forward as a suggested language for the next revision. The commenter was so notified by the Agency on 090820.