

# EXHIBIT H

## DEPARTMENT OF HEALTH

**SUBJECT:** Administrative Procedures for Arkansas Board of Health and Arkansas Department of Health

**DESCRIPTION:** The Arkansas State Board of Health and the Arkansas Department of Health are subject to the Administrative Procedure Act (Ark. Code Ann. § 25-15-201 et seq.). The Administrative Procedure Act supersedes any internal board or department administrative procedures. As such, the department is repealing the Administrative Procedures of the Arkansas Board of Health and the Arkansas Health Department.

**PUBLIC COMMENT:** A public hearing was held December 9, 2013. The public comment period expired December 9, 2013. The Department received no public comments.

The proposed effective date for the rule is May 30, 2014.

**CONTROVERSY:** This is not expected to be controversial.

**FINANCIAL IMPACT:** There is no financial impact.

**LEGAL AUTHORIZATION:** The Arkansas Administrative Procedure Act, § 25-15-201 et seq., provides the framework for which a state agency, unless the agency is specifically exempted by the Act, in Arkansas must follow to effect administrative actions, including promulgating rules. The Department of Health is no longer exempted from the Arkansas Administrative Procedure Act.



**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS**  
**WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Department of Health  
DIVISION Legal Division  
DIVISION DIRECTOR Rick Hogan  
CONTACT PERSON Elizabeth Pitman  
ADDRESS 4815 West Markham, Slot 31, Little Rock, Arkansas 72205  
PHONE NO. 501-280-4034 FAX NO. 501-661-2357 E-MAIL Sarah.Pitman@arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Robert Brech  
PRESENTER E-MAIL Robert.Brech@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 Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis**  
**Administrative Rules Review Section**  
**Arkansas Legislative Council**  
**Bureau of Legislative Research**  
**One Capitol Mall, 5<sup>th</sup> Floor**  
**Little Rock, AR 72201**

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1. What is the short title of this rule? Administrative Procedures for Arkansas Board of Health and Arkansas Department of Health
2. What is the subject of the proposed rule? Repeal of these administrative procedures.
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 regulation. \_\_\_\_\_

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. It is not being replaced with a new rule. The Department of Health is no longer exempt from the Administrative Procedures Act and that now governs.

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."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. 25-15-201 et seq.

7. What is the purpose of this proposed rule? Why is it necessary? The Department of Health and the Board of Health are no longer exempt from the Administrative Procedures Act and are now governed by those provisions. The repeal of these rules clarifies that.

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). http://www.healthyarkansas.gov

9. Will a public hearing be held on this proposed rule? Yes  No

If yes, please complete the following:

Date: December 9, 2013

Time: 10:00 a.m.

Freeway Medical Tower, 5800 West  
10<sup>th</sup> Street, Rm. 902, Little Rock,

Place: Arkansas 72204

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
December 9, 2013 at 4:30 p.m.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
May 30, 2013

12. Do you expect this rule to be controversial? Yes  No   
If yes, please explain. \_\_\_\_\_

13. 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.

Unknown

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**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Health  
**DIVISION** Legal Division  
**PERSON COMPLETING THIS STATEMENT** Elizabeth Pitman  
**TELEPHONE NO.** 501-280-4034 **FAX NO.** 501-661-2357 **EMAIL:** Sarah.Pitman@arkansas.gov

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

**SHORT TITLE OF THIS RULE** Administrative Procedures for Arkansas Board of Health and Arkansas Department of Health

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**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_

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

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_

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**

\$ 0 \_\_\_\_\_

\$ 0 \_\_\_\_\_

Anticipated that this will be no cost as this is a technical repeal of rules that are no longer applicable.

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**

\$ 0 \_\_\_\_\_

\$ 0 \_\_\_\_\_

See above.

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.



## **Arkansas Department of Health**

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4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Mike Beebe

Nathaniel Smith, MD, MPH, Director and State Health Officer

### **SUMMARY OF REPEAL OF ADMINISTRATIVE PROCEDURES OF THE ARKANSAS BOARD OF HEALTH AND ARKANSAS HEALTH DEPARTMENT**

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The Arkansas State Board of Health and the Arkansas Department of Health are subject to the Arkansas Administrative Procedures Act (A.P.A.), Ark. Code Ann. § 25-15-201 et seq. The A.P.A. supersedes any internal Board or Department administrative procedures. As such, we are repealing the Administrative Procedures of the Arkansas Board of Health and the Arkansas Health Department.

Thank you for your consideration.