

# EXHIBIT D

## DEPARTMENT OF HEALTH, HEALTH SYSTEMS LICENSING AND REGULATION, COSMETOLOGY AND MASSAGE THERAPY

**SUBJECT:** Rules and Regulations for Massage Therapy in Arkansas

**DESCRIPTION:** On October 1, 2015, the Arkansas State Board of Massage Therapy was abolished and transferred to the Department of Health pursuant to Act 1020 of 2015. Also, pursuant to that Act, the Massage Therapy Technical Advisory Committee (MTTAC) was created to advise the department in matters related to massage therapy.

These changes update the existing regulations to mirror Act 1020, specifically by referencing the Department of Health and the Board of Health and creating the duties of the MTTAC.

Other sections of the rule were updated to mirror the language of the statute.

**PUBLIC COMMENT:** A public hearing was held on April 7, 2016. The public comment period expired on April 7, 2016. The Department received the following comment:

**COMMENT:** Brenda McGriff;

There is a typographical error on page 11, Article 3-7. It says five (500) hours, but should read five hundred (500) hours.

**RESPONSE:** This correction will be made. It is not considered substantive.

The proposed effective date is August 15, 2016.

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

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

**LEGAL AUTHORIZATION:** This rule implements Act 1020 of 2015. Act 1020 abolished the Arkansas State Board of Massage Therapy transferred any and all authority to the State Board of Health and Department of Health. Arkansas Code Annotated § 17-86-203 (a)(1) gives the State Board of Health general authority to promulgate and enforce reasonable rules related to massage therapy.

# EXHIBIT D

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

DEPARTMENT/AGENCY Arkansas Department of Health  
DIVISION Health Systems Licensing and Regulation/Cosmetology and Massage  
Therapy Section  
DIVISION DIRECTOR Connie Melton  
CONTACT PERSON Kelli Kersey  
ADDRESS 4815 West Markham, Slot 8, Little Rock, AR 72205  
PHONE NO. 501-661-2171 FAX NO. 501-661-2055 **E-**MAIL kelli.kersey@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? Rules and Regulations for Massage Therapy in Arkansas
2. What is the subject of the proposed rule? Technical Rule Revision to update language of Rule to mirror Act 1020 of 2015.
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. \_\_\_\_\_

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. Act 1020 of 2015, codified at A.C.A. § 17-86-101 et seq.

7. What is the purpose of this proposed rule? Why is it necessary? To revise the Rules to mirror Act 1020 of 2015 and to create the duties of the Massage Therapy Technical Advisory Committee (MTTAC).

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: TBD

Time: TBD

Place: TBD

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

TBD

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

Tentatively August 15, 2016

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.

Massage Therapist, for

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**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Health  
**DIVISION** Health Systems Licensing and Regulation/Cosmetology and Massage Therapy Section  
**PERSON COMPLETING THIS STATEMENT** Kelli Kersey  
**TELEPHONE NO.** 501-661-2171 **FAX NO.** 501-682-5840 **EMAIL:** kelli.kersey@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** Rules and Regulations for Massage Therapy of Arkansas

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	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>

**Next Fiscal Year**

General Revenue	<u>0</u>
Federal Funds	<u>0</u>
Cash Funds	<u>0</u>
Special Revenue	<u>0</u>
Other (Identify)	<u>0</u>

Total 0

Total 0

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

**Current Fiscal Year**

General Revenue 0  
Federal Funds 0  
Cash Funds 0  
Special Revenue 0  
Other (Identify) 0  
  
Total 0

**Next Fiscal Year**

General Revenue 0  
Federal Funds 0  
Cash Funds 0  
Special Revenue 0  
Other (Identify) 0  
  
Total 0

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**

\$ 0

**Next Fiscal Year**

\$ 0

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**

\$ 0

**Next Fiscal Year**

\$ 0

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

### **Summary of Proposed Amendments to the Rules and Regulations for Massage Therapy in Arkansas**

On October 1, 2015, the Arkansas State Board of Massage Therapy was abolished and transferred to the Arkansas Department of Health pursuant to Act 1020 of 2015. Also pursuant to that Act, the Massage Therapy Technical Advisory Committee (MTTAC) was created to advise the Department in matters related to massage therapy.

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