

**ADMINISTRATIVE RULES SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

**Wednesday, July 20, 2022
2:00 p.m.
Room A, MAC
Little Rock, Arkansas**

- A. Call to order**
- B. Reports of the Executive Subcommittee**
- C. Agency updates on the status of outstanding rulemaking pursuant to Act 595 of 2021, by those agencies with no other business before the Subcommittee**
 - 1. Department of Agriculture (Wade Hodge)**
 - a. Rules Concerning the Arkansas Industrial Hemp Production Act (Act 565)**
 - 2. Department of Commerce, State Insurance Department (Booth Rand)**
 - a. Rule 118: Pharmacy Benefits Managers Regulation (Act 665)**
 - 3. Department of Education (Courtney Salas-Ford)**
 - a. DESE Rules Governing School Safety (Acts 551, 622, 620, and 648)**
 - b. DESE Rules Governing the School Counseling Improvement Act (Act 650)**
 - c. DESE Rules Governing the Succeed Scholarship Program (Acts 689 and 741)**
 - d. DESE Rules Governing Nutrition and Physical Activity Standards and Body Mass Index (Acts 1070 and 1074)**
 - e. DESE Rules Governing Professional Development (Act 1089)**

4. **Department of Transformation and Shared Services (Mitch Rouse, Lauren Ballard)**
 - a. **Rules for OPM to Review Training Materials on Divisive Concepts (Act 1100)**
 - b. **Rules for DBA Minimum Standards and Criteria (Act 440)**
5. **Office of Arkansas Lottery (Brent Standridge)**
 - a. **Operational Rules of the Arkansas Scholarship Lottery (Act 636)**

D. Rules filed pursuant to Ark. Code Ann. § 10-3-309

1. DEPARTMENT OF COMMERCE, STATE SECURITIES DEPARTMENT (Campbell McLaurin, Karyn Tierney)

a. SUBJECT: Rules of the Arkansas Securities Commissioner

DESCRIPTION: The Securities Commissioner is proposing changes to portions of the Rules of the Arkansas Securities Commissioner. The proposed changes add a continuing education requirement for investment advisers; update policies and procedures requirements for broker-dealers, investment advisers, and advertising requirements; modify an exempted security under Ark. Code Ann. § 23-42-503(a); and make other changes for clarity and cleanup purposes. A summary of the specific changes includes:

- **Rule 301.01(c) Broker-dealer and Investment Adviser – Supervision Requirements.** Rule 301.01(c) is amended for cleanup purposes.
- **Rule 302.01(f) Registration Procedure – Broker-dealer – Merger and Acquisition Brokers.** Rule 302.01(f) is amended for cleanup purposes.
- **Rule 302.02(j) Registration Procedure – Investment Adviser – Proxy Voting Policies and Procedures.** This is a new model rule addition to the Rules to require an investment adviser to maintain policies and procedures for proxy voting.
- **Rule 302.02(k) Registration Procedure – Investment Adviser – Code of Ethics.** This is a new model rule addition to the Rules to require an investment adviser to establish a written code of ethics.
- **Rule 302.02(l) Registration Procedure – Investment Adviser – Material Non-Public Information.** This is a new model rule

addition to the Rules to require an investment adviser to establish policies and procedures for material non-public information.

- **Rule 302.02(m) Registration Procedure – Investment Adviser – IAR Continuing Education.** This is a new model rule addition to the Rules to require investment adviser representatives complete continuing education requirements in the categories of Ethics and Professional Responsibility and Products and Practice. Although it is anticipated these provisions will be adopted in 2022, investment adviser representatives will have until December 31, 2023 to complete the continuing education.
- **Rule 306.02(b) Records and Reports of Investment Advisers – Business Records.** These proposed changes provide for an easy checklist for advisers of documents required by other Rules. New provisions were added to incorporate Proxy Voting, Code of Ethics, and Material Non-Public information requirements to the books and records requirements of an investment adviser.
- **Rule 308.02(m) Fraudulent, deceptive, dishonest, or unethical practices of Investment Advisers –Advertising.** This provision brings our rules concerning advertising by investment advisers into line with requirements of the SEC and other states.
- **Rule 503.01(a)(7) Exempted Securities – Non-Profit Organization Securities.** Rule 503.01(a)(7) modifies existing Non-Profit Organization Securities exemption to better consider issues raised by Arkansas issuers.
- **Rule 504.01(a)(13)(K) Exempted Transactions – Discretionary Exemptions – 100% Sale of a Business.** Amendments made to clarify a discretionary exemption for a 100% Sale of Business.
- **Rule 509.01(b) Covered Securities – Notice Filings.** This is a new addition to the Rule to clarify the renewal process for notice filings of covered securities.

Following the public comment period, the agency made the following revisions and provided the following summary of changes:

- **Rule 302.02(j) Registration Procedure – Investment Adviser – Proxy Voting Policies and Procedures.** An additional amendment was made to this proposed rule to clarify that the intended application of Rule 302.02(j) applies to investment advisers registered or required to be registered pursuant to Section 23-42-301 of the Act. This non-substantive change was made to make the language consistent with the description of “investment

adviser” in existing Rules and is not applicable to “SEC registered investment advisers.”

- **Rule 302.02(k) Registration Procedure – Investment Adviser – Code of Ethics.** An additional amendment was made to this proposed rule to clarify that the intended application of Rule 302.02(k) applies to investment advisers registered or required to be registered pursuant to Section 23-42-301 of the Act. This non-substantive change was made to make the language consistent with the description of “investment adviser” in existing Rules and is not applicable to “SEC registered investment advisers.”
- **Rule 302.02(l) Registration Procedure – Investment Adviser – Material Non-Public Information.** An additional amendment was made to this proposed rule to clarify that the intended application of Rule 302.02(l) applies to investment advisers registered or required to be registered pursuant to Section 23-42-301 of the Act. This non-substantive change was made to make the language consistent with the description of “investment adviser” in existing Rules and is not applicable to “SEC registered investment advisers.”
- **Rule 302.02(m) Registration Procedure – Investment Adviser – IAR Continuing Education.** An additional amendment was made to this proposed rule to clarify that the intended application of Rule 302.02(m) applies to investment advisers registered or required to be registered pursuant to Section 23-42-301 of the Act. This non-substantive change was made to make the language consistent with the description of “investment adviser” in existing Rules and is not applicable to “SEC registered investment advisers.”

PUBLIC COMMENT: A public hearing was held on May 2, 2022. The public comment expired on May 2, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Thomas Kendall Free, IAR KFree, Inc.

Comment: I disagree and do not believe continuing education would be beneficial to clients with the exception of compliance-related items and limit that to 8 hours per year. You are creating a situation in which companies are going to have artificial high process for “continuing education” simply because it is now a requirement. An IAR that has any sense of responsibility is going to be cognizant of the appropriate items to advise and in which to place their clients’ funds. Advertising changes are reasonable and necessary, but the continuing education is overkill.

Agency Response: Investment Advisor Representatives are tested for knowledge before they are registered, but there is no mechanism to ensure

that their level of knowledge and competence is maintained or expanded. By comparison, most other financial professionals are subject to continuing education requirements, including broker-dealer agents, insurance agents, certified financial planners, mortgage loan officers, and real estate agents. Given the Investment Adviser Representatives plan an important role in their client's financial lives, the Securities Department believes that a continuing education requirement is a reasonable solution to ensuring that Investment Adviser Representatives have the knowledge to better serve their clients.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rules do not have a financial impact.

LEGAL AUTHORIZATION: The Securities Commissioner, from time to time, may make, amend, and rescind any rules, forms, and orders which are necessary to carry out the provisions of the Arkansas Securities Act, Ark. Code Ann. §§ 23-42-101 to -509. This includes rules and forms governing registration statements, applications, notice filings and reports, and defining any terms, whether or not used in the Act, insofar as the definitions are not inconsistent with the provisions of the Act. For the purpose of rules and forms, the commissioner may classify securities, persons, and matters within his or her jurisdiction and prescribe different requirements for different classes. *See* Ark. Code Ann. § 23-42-204(a).

2. DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY (Michael McAlister, Daniel Pilkington)

a. SUBJECT: APC&EC Rule 27

DESCRIPTION: The Department of Energy and Environment's Division of Environmental Quality ("DEQ") proposes changes to the Arkansas Pollution Control and Ecology Commission Rule 27: Licensing of Operators of Solid Waste Management Facilities and Training and Certification Requirements for Environmental Officers in order to promulgate new mandated rules for DEQ's administration of the Environmental Compliance Resource Program, new mandatory rules for DEQ's administration of the licensing program for solid waste management facility operators, new mandatory rules for the licensing requirements of environmental officers, and new mandatory rules for the licensing requirements of solid waste management facility operators. DEQ proposes the rulemaking to comply with Arkansas law and incorporate statutory changes from Act 749 of 2021 and Act 773 of 2021 passed by the Arkansas General Assembly.

Changes to the rule include the following:

- Definitions of “Environmental Officer” and “Environmental violation” are amended to include references to open burning violations and all violations of Title 8, Chapter 6.
- Fees for the solid waste management facility operator licensing program will now be paid on a biennial basis.
- All solid waste management facility operator licenses are renewable and require 12 hours of continuing education training biennially for renewal.
- Environmental officer and solid waste management facility operator license reciprocity is granted if an out of state program has “substantially equivalent” licensing requirements.
- Requirements for provisional status and reinstatement of solid waste management facility operator licenses and environmental officer licenses are added.
- Changes to Appendix C and the Uniform Environmental Officer citation form were made so that Environmental Officers can now cite violations for open burning and any violation of Title 8, Chapter 6.
- Class C solid waste management facility operator licenses now require 30 course hours of training for qualification.

PUBLIC COMMENT: A public hearing was held on March 28, 2022. The public comment period expired on April 11, 2022. The Division received no comments.

Rebecca Miller-Rice, an attorney with the Bureau of Legislative Research, asked the following questions:

(1) Arkansas Code Annotated § 8-6-905(a) provides that the APC&EC, with the advice and assistance of the licensing committee, is given and charged with the power and duty to adopt rules implementing and effectuating such powers and duties of the DEQ and the committee under Title 8, Chapter 6, Subchapter 9 of the Arkansas Code, concerning the licensing of solid waste management facilities, as may be necessary for the administration and enforcement of the subchapter. Was the advice and assistance of the licensing committee obtained in adopting the pertinent provisions of these rules? **RESPONSE:** Jennifer Parslow consulted with the Licensing Committee regarding the proposed and ultimate changes to Rule 27 involving solid waste licensing issues. The Licensing Committee approved the changes and made the initial recommendation/request for us to make one of the ultimate solid waste licensing edits in Rule 27.

(2) Arkansas Code Annotated § 8-6-2009(a)(1) provides that the DEQ shall develop and promulgate a uniform environmental citation form in

consultation with the Attorney General. Was the Attorney General consulted with respect to the citation form being promulgated?

RESPONSE: DEQ developed the uniform environmental citation and consulted with Dara Hall, an attorney with the Arkansas Attorney General's office, regarding this citation and its contents. Mr. Hall approved the citation form in its entirety by responsive email on July 19, 2019 (see attached). [Bureau Staff Note: The email was provided to Bureau Staff.]

The proposed effective date is August 1, 2022.

FINANCIAL IMPACT: The Division states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 8-6-2006, the Arkansas Pollution Control and Ecology Commission ("APC&EC") shall promulgate rules for the administration of the Environmental Compliance Resource Program under the Environmental Compliance Resource Act ("Act"), Ark. Code Ann. §§ 8-6-2001 to -2019. The Division of Environmental Quality ("DEQ") shall develop and promulgate a uniform environmental citation form based on the laws applicable to the Act under Ark. Code Ann. § 8-6-2004 and conduct prohibited under Ark. Code Ann. § 8-6-2005 in consultation with the Attorney General. *See* Ark. Code Ann. § 8-6-2009(a). Further authority for the rulemaking can be found at Ark. Code Ann. § 8-6-905(a), which provides that the APC&EC with the advice and assistance of the licensing committee created by Ark. Code Ann. § 8-6-904, is given and charged with the power and duty to adopt rules implementing and effectuating such powers and duties of the DEQ and the committee under Title 8, Chapter 6, Subchapter 9 of the Arkansas Code, concerning licensing of operators of solid waste management facilities, as may be necessary for the administration and enforcement of the subchapter. The proposed changes include those made in light of:

Act 749 of 2021, which was sponsored by Representative DeAnn Vaught and amended the Environmental Compliance Resource Act; clarified the authority of an environmental compliance officer and the environmental violations cited by environmental officers; and clarified the judicial venue where citations are required to be filed; and

Act 773 of 2021, which was sponsored by Senator Bart Hester and amended the licensing of operators of solid waste management facilities; clarified the number, qualifications, and terms of licensing committee members; allowed for biennial license renewal; and addressed reciprocity for licensed out-of-state solid waste management facility operators who move to Arkansas.

3. **DEPARTMENT OF HEALTH, STATE BOARD OF HEALTH (Craig Smith, items a and c; Chuck Thompson, items b, c, and f; Laura Shue, items d and e)**

- a. **SUBJECT: Rules Governing the Advisory Board for Interpreters Between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf and Rules Governing the Licensure of Provisional and Qualified Interpreters**

DESCRIPTION: The agency provided the following summary of changes:

Table of Contents

- Renumbered sections, page numbers, and the Table of Contents
- Added words to match the subtopic title of the document
- Deleted a subtopic title that was moved under the appropriate subtopic
- Added Apprenticeship Section – Act 811

Section 202 Powers and Duties of the Advisory Board

- Deleted “for Interpreters” from title of Section as redundant

Section 301 Application for Qualified Interpreter License

- Corrected grammatical errors (capitalization, punctuation, and typographical errors)
- Moved the following sentence to subsection (d): Renewals based on out-of-state credentials and CEU documentation will be assessed individually to determine equivalency with these requirements.
- Changed the deadline for renewal applications before relicensure requires new application such that any application filed after January 31 must be made as a new application, not renewal

Section 302 Application for Provisional Licensure

- Corrected grammatical errors (capitalization, punctuation, and typographical errors)
- Changed the deadline for renewal applications before relicensure requires new application such that any application filed after January 31 must be made as a new application, not renewal

Section 303 Application for Temporary Provisional Licensure

-Corrected grammatical errors (capitalization, punctuation, and typographical errors)

Section 304 Application for Automatic Licensure

-Corrected grammatical errors (capitalization, punctuation, and typographical errors)

-Revised language to conform to changes made by Act 135 of 2021 for automatic licensure for military and armed service members (and spouses), as follows:

(a) The Board shall grant automatic licensure to an individual who holds a substantially equivalent occupational license with similar scope of practice issued by another U.S. state, territory, or district and is:

(1) A uniformed service member stationed in the State of Arkansas;

(2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

(3) The spouse of a person under 101(a)(1) or 101(a)(2) above; including:

(A) uniformed service member who is assigned a tour of duty that excludes the spouse from accompanying the uniformed service member and the spouse relocates to Arkansas; or

(B) uniformed service member who is killed or succumb to his or her injuries or illness in the line of duty if the spouse establishes residency in Arkansas.

-Removed Military Personnel and Returning Military Veterans due to legislative changes and updated language found on page as stated above

Section 305 Reciprocity

-Corrected grammatical errors (capitalization, punctuation, typographical errors, and cross-reference errors)

-Added following language to clarify licensure qualifications:

“...credentials recognized by the Advisory Board for Interpreters.”

Section 306 Licensing Individuals from a State that Does Not License Interpreters

- Corrected grammatical errors (capitalization, punctuation, typographical errors, and cross-reference errors)
- Deleted following language to avoid confusion: "...sustained by CEUs and...."

Section 309 Fees

- Corrected grammatical errors (capitalization, punctuation, and typographical errors)
- Added following language to change deadline for renewal application, after which re-activation application is required: "(if application is delivered after February 1)"
- Deleted following language to avoid confusion: "(Dependent upon Advisory Board for Interpreters review.)"

Section 310 Waiver of Licensure Fee

- Corrected grammatical errors (capitalization, punctuation, and typographical errors)
- Added the following: Act 725
 - (a) Pursuant to Act 725 of 2021, an applicant may receive a waiver of the initial licensure fee, if eligible. Eligible applicants are applicants who:
 - (1) Are receiving assistance through the Arkansas, or current state of residence equivalent, Medicaid Program, the Supplemental Nutrition Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (SSNP), the Temporary Assistance for Needy Families Program (TEA), or the Lifeline Assistance Program (LAP);
 - (2) Were approved for unemployment within the last twelve (12) months; or
 - (3) Have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.
 - (b) Applicants shall provide documentation showing their receipt of benefits from the appropriate State Agency.
 - (1) For Medicaid, SNAP, SSNP, TEA, or LAP, documentation from the Arkansas Department of Human Services (DHS), or current state of residence equivalent agency;

(2) For unemployment benefits approval in the last twelve (12) months, the Arkansas Department of Workforce Services, or current state of residence equivalent agency; or

(3) For proof of income, copies of all United States Internal Revenue Service Forms indicating applicant's total personal income for the most recent tax year e.g., "W2," "1099," etc.

(c) Applicants shall attest that the documentation provided under 101(b) is a true and correct copy and fraudulent or fraudulently obtained documentation shall be grounds for denial or revocation of license.

-Removed Military Personnel and Returning Military Veterans due to legislative changes and updated language found on page as stated above

Section 500 Definitions

-Corrected grammatical errors (capitalization, punctuation, and typographical errors)

-Moved Definitions to the end of the rules

-Added the following definitions under Act 135 of 2021:

(a) "Automatic licensure" means the granting of occupational licensure without an individual having met the occupational licensure requirements by the Rules of the Advisory Board for Interpreters or under the Arkansas Code.

(b) "Uniformed service member" means an active or reserve component member of the United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space Force, or National Guard; an active component member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or an active or reserve component member of the United States Commissioned Corps of the Public Health Service.

(c) "Uniformed service veteran" means a former member of the United States uniformed services discharged under conditions other than dishonorable.

-Revised the following definition of "Interpret" to include video relay services (VRS) and video remote interpreting services (VRI):

(1) "Interpret" shall include providing interpreting services through the use of electronic communications, information technology, asynchronous store and forward transfer, or synchronous interaction to one or more persons located in Arkansas, including, but not limited to, video relay services (VRS) and video remote interpreting services (VRI).

(d) “Interpreting agency” means an entity that provides qualified interpreter services for a fee.

Certification

-Page number revision

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on May 18, 2022. The agency indicated that it received no public comments.

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

1. The rule changes based on Act 725 state that eligible applicants are applicants that “are receiving assistance through the Arkansas, or current state of residence equivalent, Medicaid Program,” while Act 725 only lists the Arkansas Medicaid Program. Where did the additional language making applicants eligible if they received Medicaid assistance from another state come from? **RESPONSE:** This is from standard language ADH used in all of our Rules that needed to implement Act 725. We added that because after conversation with DHS, we all realized that there may be people that are in the process of establishing residency and do not have their AR Medicaid documentation back. This was to ensure newcomers to Arkansas do not slip through the cracks. It is not explicitly in the Act, but is within the intent of the Act.

2. Section 302(g) states, “Any license not renewed by January 31 of the next calendar year will be placed on inactive status.” Section 309(a) levies a reactivation fee “if application is delivered after February 1.” This seems to imply that a license renewal delivered on February 1 would be placed on inactive status but the applicant would not be charged a reactivation fee. Is the rule intended to levy a reactivation fee on any license not renewed by January 31? **RESPONSE:** I agree, Section 309(a) levies a reactivation fee “if application is delivered after February 1.” It would be best worded as, “if application is delivered after January 31.”

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Health has authority to license interpreters between hearing individuals and individuals who are deaf, deafblind, hard of hearing, or oral deaf. Ark. Code Ann. § 20-14-806(a)(1)-(2). “The State Board of Health shall adopt rules to implement”

Title 20, Chapter 14, Subchapter 8 of the Arkansas Code, regarding interpreters between hearing individuals and individuals who are deaf, deafblind, hard of hearing, or oral deaf. Ark. Code Ann. § 20-14-809. This rule implements Acts 135 and 725 of 2021.

Act 135, sponsored by Senator Ricky Hill, established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021. Under the Act, “[a]n occupational licensing entity shall grant automatic occupational licensure to” certain specified individuals. *See* Ark. Code Ann. § 17-4-105, *as created by* Act 135.

Act 725, sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals. The Act required licensing entities to promulgate rules as necessary for the Act’s implementation. *See* Ark. Code Ann. § 17-5-105(2).

b. SUBJECT: Rules for Home Health Agencies in Arkansas

DESCRIPTION: The Rules for Home Health Agencies in Arkansas are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas in Ark. Code Ann. § 20-10- 801 et. seq.

There were two legislative acts – Act 761 and Act 817 – which required modification to the Rules for Home Health Agencies in Arkansas.

The following changes are proposed:

Section 4:

Added definitions as follows:

4.C. - Branch Office – revised definition (Act 817)

4.D. - Certified Agency – revised to meet CMS definition

4.P. - Home Health Aide – revised definition to current CMS requirements

4.BB. - Personal Care Aide – added training requirement reference

4.KK. - Service Area – added 100-mile radius

Section 5:

5.A. - added statement regarding 100-mile radius and removed action not required (Act 817)

5.B. - Defined process for adding a branch office and requirements for a branch office

Defined – branch office application process

Deleted – branch must provide services same as the parent

Deleted – agency to notify HFS of branch information as this in part of the application process

B.2, B.3, and B.4 - Deleted as not a requirement

Section 7:

7.C. - Added 100-mile radius provision (Act 817)

7.D. - Deleted – Copy of CMS regs on file in HFS

7.D.7 - Deleted as unnecessary already in Section 5

Section 10:

Clean up of font issue

Section 11:

11.A.6. - Added “Agency-wide” for infection control program (Act 817)

Section 15:

15.A.1 (a), (b) - Clarified the provisions by adding “and”

15.A.2. - Deleted – HFS will notify

PUBLIC COMMENT: A public hearing was held on this rule on March 17, 2022. The public comment period expired on March 16, 2022. The agency provided the following summary of the public comments it received and its responses to those comments:

Commenter’s Name: Rick Shelton

COMMENT: We at Baptist Health Home Health are concerned that a branch office will not be required to have at least one registered nurse assigned to that office on a full-time basis. This may result in delay in care. **RESPONSE:** Each Home Health Agency (HHA) are expected to meet the needs of each patient. This is accomplished through adequate evaluation and planning of care to ensure the appropriate level of care provided is completed by the appropriate discipline. The Rules including nursing assignment is consistent with, but does not exceed, CMS requirements. ADH feels CMS requirements are adequate to ensure proper patient care and safety.

Commenter’s Name: Amy Wilbourn

COMMENT: On behalf of the Arkansas Health Care Association, I offer the following comments to the proposes rule changes to be heard at the March 17, 2022 meeting.

The legislative intent of Act 817 to revise Arkansas Code 20-8-107(a) was to allow a home health provider to provide services within 100 miles of any primary office or branch office. Provided however, consistent with the rules of the Arkansas Health Services Agency, a primary office and a branch office from the primary office must be located within the area

permitted by the Arkansas Health Services Permit Agency. It is our understanding from the consensus of the Department of Health representatives at our phone conference that there is no limitation of how many branch offices may provide services as an extension of the primary office, but each branch office must be located within 100 miles of the primary office.

The legislative intent was not to grant licensed home health agencies a statewide license. That would be contrary to the stated purview of the Arkansas Health Services Permit Agency.

Thank you for your kind consideration of our comments.

RESPONSE: When drafting the Rule amendments ADH reviewed Act 817 of 2021. It is ADH's interpretation that Act 817 allows current licensed HHAs to expand beyond their service area without requiring further Permits of Approval as long as the HHA has an office within 100 miles of those they serve. ADH has reviewed the testimony during the applicable legislative committees concerning Act 817. The testimony in those committees support this interpretation of legislative intent. There was no opposition testimony in the House Committee. The one opposition speaker in Senate Public Health and Labor Committee did not attempt to challenge or contradict the testimony as to Act 817's intent. Further, there was no contradiction of this interpretation when presented on the floor of both chambers.

Commenter's Name: Scott M. Levey

COMMENT: Offer support to the proposed revisions in accord with Act 817 of 2021. **RESPONSE:** No response needed.

Commenter's Name: Latisha Richey

COMMENT: I do not believe an agency can provide quality care to patient 100 miles from your location and be able to provide oversight needed in home care. **RESPONSE:** See response to #1. Further, in regard to HHAs that provide only unskilled home healthcare services, ADH Rules cannot by law require the HHAs to have a branch office closer than 100 miles. *See A.C.A. § 20-10-806(b)(3)(B)(iii).*

Commenters' Names: Charlie Martin, Lynda Johnson

1. Will these changes allow out-of-state agencies to open a branch in Arkansas? **RESPONSE:** Out-of-state agencies would not be able to open a Branch office. The Rules and Act 817 are only applicable to licensed HHAs with a valid Permit of Approval (POA). Out of state agencies will

need to go through the normal licensing process including obtaining a POA in order to open an office in Arkansas.

2. Will existing licensed providers be notified if a conditional emergency service exception is granted? **RESPONSE:** Licensed providers are notified of the conditional emergency service exception by the provider receiving the exception. See Section 15.A.1.c.

***As a result of our review of the proposed amendments during the public comment process ADH clarified the definition of branch office. See Section 4 Item C.**

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

1. The rule summary cites to Act 761 of 2021, but I don't see any changes related to background checks. Is that accurate? **RESPONSE:** This is correct/accurate.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The State Board of Health shall promulgate "such rules and standards as may be necessary for the accomplishment of the purposes of" Title 20, Chapter 10, Subchapter 8 of the Arkansas Code, regarding home healthcare services. Ark. Code Ann. § 20-10-806(b)(1). These rule changes implement Act 817 of 2021, sponsored by Representative Clint Penzo, which amended the requirements regarding locations for and geographic areas of a home healthcare services agency.

The agency originally indicated that changes were also made in light of Act 761 of 2021, also sponsored by Representative Penzo, which required employees of certain healthcare providers to have a criminal background check. However, the agency subsequently clarified that no changes were made related to background checks.

c. **SUBJECT: Massage Therapy**

DESCRIPTION: These rule amendments clarify prohibited criminal offenses and make changes to comply with Acts 135, 136, 725, 746, 748, and 811 of 2021.

Summary of Proposed Changes

Section 2

- Added definition of “apprenticeship” to comply with Act 811 of 2021.
- Added definitions of “automatic licensure,” “uniformed service member,” and “uniformed service veteran” to comply with Act 135 of 2021.
- Added definition of “owner.”

Section 3: Policies

- Added fee waiver language to comply with Act 725 of 2021.
- Added Earn and Learn language to comply with Act 811 of 2021.

Section 6: Reciprocity, Temporary License, and Military Licensure

- Added uniformed service member, veterans, and spouses language to comply with Act 135 of 2021.

Section 7: Continuing Education

- Added language to address state of disaster emergency language to temporarily suspend requirements for in-person continuing education hours. This language was added in response to industry concern.

Section 9: Massage Therapy Schools and Postsecondary Massage Therapy Schools

- Added language for purchase of an existing Massage Therapy School.
- Added language regarding relocation of a Massage Therapy School or Postsecondary Massage Therapy School.

PUBLIC COMMENT: A public hearing was held on this rule on May 23, 2022. The public comment period expired on May 23, 2022. The agency provided a summary of the public comments it received and its responses to those comments. Due to its length, this summary is provided separately.

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

1. The questionnaire indicates the rules were amended in part to comply with Act 136 (criminal offenses) and Act 746 (licensure for individuals with work permits), but I don’t see any relevant changes in the markup. Were these changes withdrawn or is my markup incorrect? **RESPONSE:** Act 136 expanded the disqualifying offenses to include those convictions that occurred in other states and added prostitution to the disqualifying offenses for disciplinary actions for massage therapists. Act 746 addresses granting licensure for those individuals with “work permits.” In review of the proposed Rules, I believe these Acts were included on the

questionnaire erroneously, as we determined they do affect the administration of the industry licensing but they did not require a revision of the Rules.

2. Section 9(3)(b)(8) charges a \$425 registration fee for a relocated school. Does the Department consider this an establishment fee under § 17-86-306(f)(1), or does this fee come from somewhere else? **RESPONSE:** Yes, the relocation fee falls under establishment fee, as the administrative tasks necessary to review relocation application and inspect the new facilities are correlative to a new school application with only nominal differences.

The proposed effective date is December 31, 2022.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The State Board of Health may promulgate and enforce reasonable rules for the purpose of carrying out Title 17, Chapter 86 of the Arkansas Code, regarding massage therapists. This rule implements Acts 135, 725, 748, and 811 of 2021.

Act 135, sponsored by Senator Ricky Hill, established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021. Under the Act, “[a]n occupational licensing entity shall grant automatic occupational licensure to” certain specified individuals. *See Ark. Code Ann. § 17-4-105, as created by Act 135.*

Act 725, sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals. The Act required licensing entities to promulgate rules as necessary for the Act’s implementation. *See Ark. Code Ann. § 17-5-105(2), as amended by Act 725.*

Act 748, sponsored by Representative Bruce Cozart, amended occupational criminal background checks.

Act 811, sponsored by Representative Joshua Bryant, created the Earn and Learn Act and allowed individuals to work and earn a paycheck while also fulfilling licensing requirements and gaining the skills to fill the needs of an expanding workforce. Temporary language contained within the Act required all licensing entities covered by the Act to “promulgate rules necessary to implement” the Act. Act 811, § 2.

d. **SUBJECT: Rules Pertaining to the State Board of Sanitarians**

DESCRIPTION: Pursuant to Ark. Code Ann. § 17-43-101 et seq., the Department has authority to promulgate rules pertaining to the State Board of Sanitarians. These rules ensure that registered sanitarians meet the minimum licensure requirements to protect the health and safety of the citizens of Arkansas. Sanitarians are professionals working in the field of environmental health and are now referred to as environmental health specialists. They are public health specialists who identify risks and enforce environmental regulations, health, and safety.

The proposed changes:

- Make miscellaneous corrections to references and descriptions.
- Update the rule to comply with Acts 135 and 725.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on June 10, 2022. The agency indicated that it received no public comments.

The proposed effective date is August 1, 2022.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The powers, duties, and functions of the Arkansas State Board of Sanitarians were transferred to the Department of Health by Act 481 of 2013. *See* Ark. Code Ann. § 17-43-207(a). The Department issues registration certificates for registered sanitarians and has “such authority as is reasonably necessary to administer” Title 17, Chapter 43 of the Arkansas Code, regarding sanitarians. Ark. Code Ann. §§ 17-43-203(a), -301(a). This rule implements Acts 135 and 725 of 2021.

Act 135, sponsored by Senator Ricky Hill, established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021. Under the Act, “[a]n occupational licensing entity shall grant automatic occupational licensure to” certain specified individuals. *See* Ark. Code Ann. § 17-4-105, *as created by* Act 135.

Act 725, sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals. The Act required licensing entities to promulgate rules as necessary for the Act’s implementation. *See* Ark. Code Ann. § 17-5-105(2).

e. **SUBJECT: Rules Pertaining to Water Operator Licensing**

DESCRIPTION: Pursuant to Ark. Code Ann. § 17-51-101 et seq., the Department has authority to promulgate the Rules Pertaining to Water Operator Licensing. These Rules are adopted for the purpose of ensuring that all public water systems in the State of Arkansas are operated by personnel who have shown their competence and knowledge of the public health and scientific principles necessary to produce and deliver adequate quantities of water which meets or exceeds the National Primary and Secondary Drinking Water Standards.

The proposed rule revises the Rules to conform with the licensure amendments pursuant to Acts 135, 725, and 811 of 2021. The following changes are proposed:

1. Updated rule to reflect requirements of Act 811 of the 2021 General Assembly (SECTION VIII).
2. Updated rule to reflect changes related to Act 725 of the 2021 General Assembly (New SECTION XII. H).
3. Updated rule to reflect changes related to Act 135 of the 2021 General Assembly (New SECTION XIV. F).

PUBLIC COMMENT: No public hearing was held on this proposed rule. The public comment period expired on June 7, 2022. The agency indicated that it received no public comments.

The proposed effective date is August 1, 2022.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The State Board of Health has authority to license water system operators and to adopt rules necessary to administer and enforce Title 17, Chapter 51 of the Arkansas Code, regarding waterworks operators. *See* Ark. Code Ann. §§ 17-51-103(a)(1), -201(a). This rule implements Acts 135, 725, and 811 of 2021.

Act 135, sponsored by Senator Ricky Hill, established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021. Under the Act, “[a]n occupational licensing entity shall grant automatic occupational licensure to” certain specified individuals. *See* Ark. Code Ann. § 17-4-105, *as created by* Act 135.

Act 725, sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals. The Act required

licensing entities to promulgate rules as necessary for the Act's implementation. *See* Ark. Code Ann. § 17-5-105(2).

Act 811, sponsored by Representative Joshua Bryant, created the Earn and Learn Act and allowed individuals to work and earn a paycheck while also fulfilling licensing requirements and gaining the skills to fill the needs of an expanding workforce. The Act required all licensing entities covered by the Act to “promulgate rules necessary to implement” the Act. Act 811, § 2.

f. SUBJECT: Rules for Hospices in Arkansas

DESCRIPTION:

Background

Pursuant to A.C.A. § 20-7-117, § 20-7-123, and § 20-38-101 et seq., the Department has authority to promulgate the Rules for Hospices in Arkansas. These rules ensure high quality professional care for terminally ill patients and their families by providing for the safe, humane and appropriate palliative care of all admitted to a hospice program regardless of setting and shall apply to both new and existing agencies.

Key Points

The proposed rule:

- Adds a visitation restriction to comply with Act 311 of 2021.
- Clarifies that tuberculosis policies should conform to current CDC Guidelines.

PUBLIC COMMENT: A public hearing was held on these rules on June 1, 2022. The public comment period expired May 31, 2022. The agency indicated that it received no public comments.

The proposed effective date is September 1, 2022.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Health has the authority to regulate hospice care in Arkansas through the State Hospice Office, “to be administered in a division of the department to be designated by the Secretary of the Department of Health.” Ark. Code Ann. § 20-7-117(a), (b)(1). The State Hospice Office shall “implement rules, regulations, and standards for hospice care in general agreement with” national standards and federal law. Ark. Code Ann. § 20-7-

117(b)(1)(B). These rules implement Act 311 of 2021. The Act, sponsored by Representative Julie Mayberry, created the No Patient Left Alone Act and concerned visitation rights of patients.

4. DEPARTMENT OF HUMAN SERVICES, DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES (Melissa Weatherton)

a. SUBJECT: ADDT and EIDT Transportation Services

DESCRIPTION:

Statement of Necessity

The Early Intervention Day Treatment Medicaid Provider Manual (EIDT Manual), Adult Developmental Day Treatment Medicaid Provider Manual (ADDT Manual), Transportation Medicaid Provider Manual (Transportation Manual), Rules for the Division of Developmental Disabilities Early Intervention Day Treatment (EIDT Rules), and Rules for the Division of Developmental Disabilities Adult Developmental Day Treatment (ADDT Rules) are being updated to remove EIDT and ADDT transportation services from the Transportation Medicaid Provider Manual and include EIDT and ADDT transportation services as an optional service within the EIDT Manual and ADDT Manual, respectively, and to update the reimbursement methodology and rate for EIDT and ADDT transportation services. The EIDT Rules and ADDT Rules are being updated to establish the operational requirements relating to ADDT and EIDT transportation services, which would bring those rules into alignment with operational requirements applicable to other Department of Human Services funded transportation services. The Arkansas Medicaid State Plan is being updated to align with current ADDT and EIDT transportation reimbursement and operational requirements.

Rule Summary

Effective August 1, 2022, the Transportation Medicaid Provider Manual is being revised to remove Sections 260.000 “Early Intervention Day Treatment (EIDT) and Adult Developmental Day Treatment (ADDT) Transportation” and 270.000 “Program Coverage” from the manual in its entirety.

Effective August 1, 2022, the Early Intervention Day Treatment Medicaid Provider Manual is being revised as follows:

- Add Section 214.230 “EIDT Transportation Services” establishing transportation services to and from an EIDT facility as an optional EIDT service under the manual.

- Adding and clarifying required documentation related to EIDT services.
- Add other clarifying language and formatting changes.

Effective August 1, 2022, the Adult Developmental Day Treatment Medicaid Provider Manual is being revised as follows:

- Add Section 214.230 “ADDT Transportation Services” establishing transportation services to and from an ADDT facility as an optional ADDT service under the manual.
- Clarifying the requirements related to Occupational Therapy, Physical Therapy, and Speech-language Pathology services provided by an ADDT.
- Adding and clarifying required documentation related to ADDT services.
- Add other clarifying language and formatting changes.

Effective August 1, 2022, the Rules for the Division of Developmental Disabilities Early Intervention Day Treatment are being revised as follows:

- Add Section 604 “Transportation,” which outlines the operational requirements relating to transportation services provided by an EIDT, which would bring those rules into alignment with operational requirements applicable to other Department of Human Services transportation services.
- Clarify the criminal background, adult and child maltreatment, and other central registry checks that must be completed for individuals that have direct contact with EIDT clients.

Effective August 1, 2022, the Rules for the Division of Developmental Disabilities Adult Developmental Day Treatment are being revised as follows:

- Add Section 605 “Transportation,” which outlines the operational requirements relating to transportation services provided by an ADDT, which would bring those rules into alignment with operational requirements applicable to other Department of Human Services transportation services.
- Clarify the criminal background, adult and child maltreatment, and other central registry checks that must be completed for individuals that have direct contact with ADDT clients.

Effective August 1, 2022, the Arkansas Medicaid State Plan is being revised as follows:

- Attachment 3.1-B pg. 8b – changed “a DDTCS” facility to “their” facility.
- Attachment 4.19 B pg. 8aa-2 – changed “2018” to “2022.”
- Stated that mileage will be paid on a per person, per mile basis.

- Removed the condition that Medicaid can only be billed for one recipient when multiple recipients are being transported.
- Removed the statement that the State agency will review cost and mileage information biennially and adjust as necessary.

PUBLIC COMMENT: A public hearing was held on this rule on May 24, 2022. The public comment period expired on June 6, 2022. The agency provided a summary of the public comments it received and its responses to those comments. Due to its length, the summary is provided separately.

The proposed effective date is August 1, 2022.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, the total cost to implement this rule is estimated at \$0 for the current fiscal year and \$10,169,888 for the next fiscal year (\$2,886,214 in general revenue and \$7,283,674 in federal funds). The total estimated cost to state, county, and municipal government to implement this rule is \$2,886,214 for the current fiscal year and \$2,886,214 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least \$100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

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

The purpose of this rule is to implement the terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al. v. Gillespie et al.

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

The changes included in this Rule implement and carry out the terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al. v. Gillespie et al.

(3) a description of the factual evidence that:

(a) justifies the agency's need for the proposed rule; and

The terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al. v. Gillespie et al. required DHS to engage an actuary service to determine an appropriate transportation rate for day treatment transportation services. This rule amendment implements the rate methodology and payment for EIDT and ADDT transportation services as determined by the state procured actuary service.

(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

The Rule implements the EIDT and ADDT transportation rate methodology and amount as determined by the state procured actuary in compliance with the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider's Association et al. v. Gillespie et al.

(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;

There are no less costly alternatives.

(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;

N/A

(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

N/A

(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.

The Agency monitors State and Federal rules and policies for opportunities to reduce and control costs.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

Per the agency, this rule implements the terms of the settlement agreement in Case No. 4:18-cv-00908-KGB, CHMS Provider’s Association et al. v. Gillespie et al.

5. DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES (Elizabeth Pitman)

a. SUBJECT: Skilled Nursing Facility Payment Methodology

DESCRIPTION:

Statement of Necessity

DHS is revising its Long Term Care reimbursement manual to update its payment methodology for skilled nursing facilities. The revisions are necessary due to changes in the skilled nursing facility standards over the past several years. These revisions will allow skilled nursing facilities to provide quality skilled care in an efficient and up-to-date manner.

Summary

For most pages below, minor grammatical style changes were made. Other changes are:

Page 1-3, 1-4:

- Filing Timeline: Changed filing timeline for nursing facilities from seventy-five (75) to ninety (90) days. Changed filing timeline for Arkansas Health Center and ICF/IIDs with 16 or more beds from the second Tuesday of February and August to sixty (60) days of the end of the reporting period
- Method of Filing for Nursing Facility cost reporting was clarified to indicate via electronic submission. ICF/IID reporting was provided option to be electronically filed
- Changed Office of Long Term Care to Division of Medical Services

- Incorporated submission of cost reports through LTC cost report web application

Page 2-2, 2-2a, 2-2b, 2-2bb, 2-2bbb, 2-2c, 2-2ff, 2-2fff, 2-2g, 2-2k:

- Deleted outdated language regarding use of a floor and rebasing of direct care per diem cost
- Changed rebasing of indirect, administrative, and operating per diem from at least once every three (3) years to annually
- Revised fair market rental minimum occupancy percentage to reflect a temporary decrease followed by raising it again over time to help with the impact of COVID-19
- Revised return on equity portion of fair market rental payment to use sum of average Moody's Seasoned Baa Corporate Bond Yield for the month of June in the applicable cost reporting period plus one and a half percent (1.5%) as a risk premium
- Added: Beginning with the CY 2023 rate year and based on the Base PBV for the SFY cost reporting period, the PBV methodology shall differentially apply PBV amounts according to the class of resident room where a licensed bed is located
- Added definitions and criteria for classifying resident rooms
- Stipulated that Division of Medical Services will analyze and compare annual updates made using construction cost index and actual total cost of new SNF construction in Arkansas during the same period every five (5) years. The Division shall rebase the base PBV if actual construction costs increased more than estimated by the construction index.
- Increased minor equipment purchases from a maximum of \$300 to less than \$2500 to be expensed within the cost area in which it is normally used
- Simplified the method of applying reimbursement rates for facilities that have a change in licensure due to purchase or lease of an existing facility participating in the Medicaid program
- Clarified that the Division will use the Skilled Nursing Facility Market Basket Index as published by the Centers for Medicare and Medicaid Services and use the Four Quarter Moving Average Percent Change identified for the final quarter of the rate period for all inflation adjustments unless stated otherwise in the specific area of the plan
- Added Medication Assistants salaries and contracts to Direct Care expenses
- Deleted outdated language pertaining to Home Style Facility Beds and included definition by reference to Section 2-4 A.1.C

Page 3-3a, 3-5, 3-11a

- Requires providers to supply a detailed income statement from related party entities for the costs of related organizations so proper cost report classification can be determined. Provides examples.
- Adds medication assistants to the list of compensated employees
- Changes cost of minor equipment from \$300 to \$2500

Chapters 4-A, 4-B, 5

- Hyperlinks to the forms were added and forms were deleted. The forms will be available in Section V of the Arkansas Medicaid Provider Manuals for purposes of downloading and use.

Pages 4-9A through 4-13A, 4-19A, 4-36A, 4-42A, 4-43A, 4-48Aa

- Lines were added for Salaries of Medication Assistants – Certified and Contract Medication Assistants – Certified and all lines following were renumbered
- Line 3-02, \$300 was changed to \$2500
- Equipment Line 160.00, equipment, \$300 was changed to \$2500
- Allowance Line 603.10 was added to account for Salaries of Medication Assistants
- Allowance Line 618.10 was added to account for Contracted Medication Assistants
- Property Line 802.40 was changed from \$300 to \$2500

PUBLIC COMMENT: A public hearing was held on this proposed rule on May 26, 2022. The public comment period expired on June 6, 2022. The agency provided the following summary of the public comments it received and its responses to those comments:

Commenter's Name: Holly Johnson, Senior Assistant Attorney General, Medicaid Fraud Control Unit, Office of Arkansas Attorney General Leslie Rutledge

COMMENT: As to the certification forms for the cost report paperwork, our response is that they include a place for the person signing to print the person's name (in addition to the signature). As to an unsigned cost report (must have a printed name and signature), our response is that they should not be used in any way to compute the unit rate; it should be noted as incomplete and not pass through submission. **RESPONSE:** The State will review your request to add a line to Form 2 of the cost report for the printed name in addition to the signature. Cost reports are not considered submitted until the signature pages are received and all supporting documents are submitted. Cost reports without signatures will not be used in the rate calculation.

Commenter's Name: Robin Lambert, Administrator, Johnson County Health and Rehab, LLC

COMMENT: My name is Robin Lambert, and I am the licensed administrator of Johnson County Health and Rehab, LLC, located in Clarksville, Arkansas. I have served as the facility's Administrator since 2013. Prior to that time, I worked in long term care as a CNA and later, an LPN after obtaining my nursing license in 1998. I was honored to be named the Arkansas Administrator of the Year in 2017. I am writing to express my full support of the recent revisions to the Skilled Nursing Facility Payment Methodology, specifically, the addition of certified medication assistants to the list of allowable staff costs in direct care reimbursement. My facility is actively working to add Medication Assistants - Certified to our facility staff after completion of an educational program provided by the ATU Ozark Campus. Given my experience as an LPN and a licensed administrator, I firmly believe that the addition of MA-Cs directly benefits the residents of this facility, allowing our licensed nursing staff to focus on resident assessments while supervising the administration of medications by the MA-Cs. The revised rule provides the payment support necessary to add these positions to our employee roster. **RESPONSE:** Thank you for your support of this Proposed Rule.

Commenter's Name: Shari McGraw, Administrator, Colonel Glenn Health and Rehab

COMMENT: My name is Shari McGraw, and I am the administrator of Colonel Glenn Health and Rehab, LLC, located in Little Rock. Please accept this letter as a public comment in support of the recent revisions to the Skilled Nursing Facility Payment Methodology. I am a nurse and a licensed administrator, and have worked in long term care for 25+ years. I have worked as a nurse, providing direct care to residents, and in an administrative capacity, overseeing the care provided. My support is specific to the addition of certified medication assistants as allowable direct care staff costs for Medicaid reimbursement. Under my direction, Colonel Glenn recently added a Medication Assistant - Certified to our facility staff, and we intend to add more as they complete certification programs and related testing. MA-Cs are able to administer many of the medications our residents require, under the supervision of a licensed nurse, which is a significant task. The changes to the reimbursement rules allow facilities such as Colonel Glenn to add these positions to our staff, which in turn gives our licensed nurses the opportunity to focus on resident assessment, to the benefit of our residents. **RESPONSE:** Thank you for your support of this Proposed Rule.

Commenter's Name: Rachel Bunch, Executive Director, The Arkansas Health Care Association

COMMENT: The Arkansas Health Care Association (AHCA) is pleased to comment on the Department of Human Services (DHS) Proposed Rule 190 amending the Arkansas Medicaid program's skilled nursing facility (SNF) payment methodology. We strongly support these critically needed payment reforms and recommend their approval as proposed.

Rebased Per Bed Value with Tiering by Class of Room: Arkansas and many other states use a fair market value methodology to reimburse SNFs for necessary property costs, such as buildings, resident rooms, fixed equipment, furnishings, fire protection, and other patient safety systems. Several factors, such as Per Bed Value (PBV), are used to calculate the property cost component of each SNF's daily rate. PBV means the current Arkansas cost of constructing and furnishing a new SNF bed. The PBV was originally set in the current 1999 manual. Annual adjustments were capped, and the amount was never rebased. Now \$56,385 per bed, the PBV is grossly out of date. As a result, the modernization of facilities has been severely penalized financially for many years, with facilities experiencing steadily increasing losses. AHCA strongly supports the proposed changes related to the Per Bed Value. Specifically, we support the proposed rebased PBV amounts and the tiered method of establishing separate PBV amounts based on the class of room. The rebased PBVs are based on today's actual Arkansas costs of modern and safe buildings and developed according to a careful analysis of the latest Arkansas-specific cost data. The proposed policies will:

- Reduce SNF financial losses on current property costs;
- Eliminate the longstanding unintended financial penalties for the modernization of Arkansas SNFs;
- Reduce financial penalties for investing in new building designs and systems to support infection prevention and the needs of today's high-needs patients;
- Recognize the real-world construction cost differences between private and semi-private rooms; and
- Will encourage facilities to provide private rooms and eliminate outdated communal bathrooms.

Temporary Reduction of Minimum Occupancy Percentage: For many years, the property cost component of SNF daily rates has been capped by a minimum occupancy percentage of 80%. This has contributed to SNF financial losses on Medicaid services. The problem has intensified as many SNFs have lower occupancies due to rural location, the COVID-19 public health emergency, and Medicare cutbacks. Therefore, we strongly support the proposed change in the minimum occupancy percentage from the current 80% to 60% in the SFY 2023 rate period, with an annual

schedule to increase the minimum occupancy percentage to 75% in SFY 2027.

Modernized Return on Equity Methodology: AHCA strongly supports the proposed reform to change the basis for the return of equity factor in the property cost component from the yield on 30-year U.S. Treasury Bonds to Moody's Seasoned Baa corporate bond yield. This is another important reform to modernize the methodology from the outdated 1999 rules. The fair market value methodology for determining the property cost component of SNF daily rates includes a return on equity factor. The current factor is based on the 30-year Treasury bond yield on June 30 plus a standard 1.5% risk premium. Of course, U.S. Government-issued bond interest rates are not comparable to what a SNF must pay on its debt on buildings, land, and major equipment. Therefore, the proposed rule sensibly replaces the 30-year U.S. Treasury Bond yield with Moody's Seasoned Baa corporate bond yield. The standard 1.5% risk premium is retained. Corporate debt that the Moody's debt rating service rates as "Baa" risk are neither high-yield, low-risk debt nor high-risk "junk bonds." The Baa rating is the "Goldilocks" of long-term corporate debt. We agree with the Department that it is a far more reasonable method to set the return on equity factor.

Medication Assistant-Certified Costs Recognized: Research consistently shows that certified medication assistants (MA-Cs) help:

- Improve the quality and safety of administration of oral medications;
- Support the highest and best clinical care roles of nursing staff; and
- Improve the professional morale and retention of nurses.

In addition, MA-Cs will help SNFs better meet federal requirements expanded in 2016 and provide an important advancement opportunity for certified nurse aides. In 2021, the General Assembly acknowledged these advantages in Act 759, which authorized Arkansas SNFs to begin using MA-Cs. The modernized and strengthened SNF direct care staffing and reporting standards created in Act 715 appropriately recognize MA-Cs (and other patient care professionals such as nurse practitioners and licensed therapists) as direct care staff. AHCA strongly supports the proposed change to recognize the cost of certified medication assistants (e.g., wages and benefits) in the direct care component of Medicaid SNF daily rates. This change partially corrects the outdated SNF payment methods consistent with Act 759 and Act 715. Of course, similar reforms will be necessary soon to properly recognize SNF expenses of all types of direct care professionals. However, recognition of CMA expenses is a much-welcomed reform.

Recognizing Portion of Medical Equipment Costs: One of the many vagaries of the old 1999 payment methodology is how SNFs are not

reimbursed for much of the medical and other equipment a facility must buy or lease to meet individual resident needs or federal requirements. Only minor equipment costing less than \$300 per item – or less than \$1,000 for group purchasing of the same items – may be expensed. Medical equipment or other needed equipment above these ridiculously low thresholds is not allowable and not reimbursed. We strongly support the proposal to increase the threshold for expensing minor equipment to \$2,500 per item and eliminate the threshold for expensing group minor equipment purchases. This is an important, much-needed step in modernizing reimbursement of medical and other key equipment essential in today's skilled nursing facilities. We note that the proposed new \$2,500 level is still half the \$5,000 amount Medicare, other states, the IRS, and others have recognized for years. In the near future, we hope the Department will revisit this and adopt the standard \$5,000 threshold, along with other long-needed reforms to equipment reimbursement.

Adoption of Medicare Market Basket Index: We support the proposed change to adopt the CMS Medicare SNF Market Basket Index to update expenses reported in SFY-based cost reporting years to calendar year-based rate years. This is an improvement to the privately calculated index similar but distinct from the SNF Market Basket Index the CMS Office of the Actuary must maintain for Medicare purposes under federal law. Since nearly all Arkansas skilled nursing facilities participate in Medicaid and Medicare, adopting the same market basket index as Medicare provides consistency. We recognize the adverse effects and limitations inherent in the Medicare SNF Market Basket Index. The Medicare SNF Market Basket Index does not fully or accurately measure the actual change in costs and often understates real-world SNF inflation, particularly in direct care labor costs and periods of high inflation like today. Fortunately, the Arkansas methodology annually rebases rates based on the most accurate, audited cost data available. The SNF Market Basket Index, while limited and imperfect, helps partially mitigate the inevitable lag of 18-months between the beginning of a cost reporting year and the beginning of the subsequent rate year.

Annual Rebasing of Indirect, Administrative, and Operating Costs: We support the proposed change to provide for annual rebasing of the statewide class rate for the indirect, administrative, and operating cost component of the Medicaid SNF daily rate. The current rule calls for rebasing at least every three years, which is ill-advised for many reasons, including an added financial risk for facilities, inconsistency with annual rebasing of direct care costs, and unintentionally reducing the intended pro-efficiency purpose of a class rate. As a result, the Division of Medical Services has wisely chosen to rebase these costs annually for the last several years. This further supports the rationale of simply changing the

language to provide annual rebasing of the indirect, administrative, and operating cost component.

Increasing Annual Cost Reporting Deadline by 15 Days: Current policy requires Arkansas SNFs to submit the Medicaid cost reports within 75 days after the cost reporting period (State Fiscal Years). Medicaid cost reporting is extremely elaborate and complex, with Arkansas requiring more financial information than many other states. Therefore, we welcome the proposed rule change to change the cost reporting deadline to 90 days.

Language Clarifying Costs of Related Organizations: The proposed rule provides additional language to clarify the process for reporting and recognizing the costs incurred by related organizations. We share the Department's objective to make this highly technical aspect of cost reporting and rate-setting more consistent and understandable for all concerned. We commend the Department, particularly the Secretary's Office and the Division of Medical Services, for the hard work developing these essential reforms to the Medicaid SNF payment methods. We are committed to working with the Department's leadership and staff in developing a new modernized SNF reimbursement manual with reforms to update policies for today's skilled nursing facility populations and the massive changes in best practices and federal requirements since 1999.

RESPONSE: Thank you for your support of this Proposed Rule.

The proposed effective date is August 1, 2022.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost to implement this rule is \$55,000,000 for the current fiscal year (\$12,859,000 in general revenue, \$39,391,000 in federal funds, and \$2,750,000 in provider fees) and \$60,000,000 for the next fiscal year (\$14,028,000 in general revenue, \$42,972,000 in federal funds, and \$3,000,000 in provider fees). The total estimated cost by fiscal year to state, county, and municipal government to implement this rule is \$12,859,000 for the current fiscal year and \$14,028,000 for the next fiscal year.

The agency indicated that, under this rule, skilled nursing facilities pay a provider fee. A portion of the non-federal share will be funded from the provider fee.

The agency indicated that there is a new or increased cost or obligation of at least \$100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or

to two or more of those entities combined. Accordingly, the agency provided the following written findings:

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

DHS is revising its Long Term Care reimbursement manual to update its payment methodology for skilled nursing facilities. These revisions will allow skilled nursing facilities to provide quality skilled care in an efficient and up-to-date manner.

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

The revisions are necessary due to changes in the skilled nursing facility standards over the past several years. The proposed rule is not 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;

The Long-Term Care reimbursement manual has not been fully reviewed for changes in cost reporting in several years. Not only the natural increase in cost of living, but also the impact of the COVID-19 pandemic has caused hardships for the skilled nursing facilities to maintain their standards and continue to meet their statutory obligations. By updating the reimbursement methods within the manual to account for inflationary factors and changes in standards, the rule's costs will allow clients of these facilities to retain a better quality of care and safety.

(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;

There are no less costly alternatives.

(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;

N/A

(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

N/A

(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.

The Agency monitors State and Federal rules and policies for opportunities to reduce and control costs.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

6. DEPARTMENT OF LABOR AND LICENSING, DIVISION OF LABOR, BOARD OF ELECTRICAL EXAMINERS OF THE STATE OF ARKANSAS (Miles Morgan, Dan Parker, Lindsay Moore)

a. SUBJECT: Administrative Rules of the Board of Electrical Examiners

DESCRIPTION: The purpose and necessity of the proposed amendment is to comply with changes from the 2017, 2019 and 2021 legislative sessions.

The proposed amendments would accomplish the following:

1. Amend the board's rule on license and examination fees to provide for an initial fee waiver for certain individuals pursuant to Act 725 of 2021.
2. Amend the board's rule on automatic licensure for military personnel and their spouses to conform to Act 135 of 2021.
3. Amend the board's rules to reflect the Board's decision to eliminate the grace period for acquiring continuing education hours. If any licensee fails to complete the required continuing

education hours before the end of each National Electric Code (NEC) cycle, the Board may, after hearing, deny renewal of a license for cause. The NEC cycle is updated every three (3) years. This amendment authorized by Arkansas Code Annotated § 17-28-311(c).

4. Amend the board's rule to comply with Act 720 of 2021 creating a lifetime journeyman license for qualifying individuals sixty-five (65) years of age and older. This amendment is also authorized by Arkansas Code Annotated § 17-28-307(b).
5. Amend the board's rules to provide a temporary license for certain construction projects pursuant to Act 476 of 2017.
6. Amend the board's rules to reflect the board's decision to eliminate the Screening Committee for processing exam applications and replace the committee with the Chief Electrical Inspector.
7. Amend the board's rules to recognize the special endorsement for Specialist Sign Electrician pursuant to Act 766 of 2017 and to reflect the twenty-five dollar (\$25.00) yearly renewal fee for a Specialist Sign Electrician's license.
8. Amend the board's rules to reflect the current fee charged by a third-party testing service. This fee is not paid to the department, and it does not exceed the statutory limit of one hundred dollars (\$100.00).
9. Amend the board's rules to comply with Act 748 of 2021 and Act 990 of 2019 regarding pre-licensure criminal background checks and waiver requests.
10. Amend the board's rules to eliminate the requirement to retake the examination if the licensee fails to renew their license within a year after the expiration of the license. This amendment also reflects the increase of the late fee penalty.
11. Make grammatical and stylistic changes as a result of government transformation.

PUBLIC COMMENT: A public hearing was held on May 17, 2022. The public comment period expired on May 17, 2022. The board received no comments.

Suba Desikan, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses thereto:

1. Why did the Board choose to eliminate the grace period for acquiring continuing education hours? **RESPONSE:** Act 381 of 2017 eliminated the re-testing requirement for electricians who failed to timely renew their license. Re-testing was still required by rule for failure to obtain continuing education hours within the 90-day grace period. The grace period was established originally because the board felt that the penalty of re-testing was so severe. In light of the 2017 statutory change, the board

felt it was appropriate to eliminate the re-testing requirement for failure to timely obtain continuing education hours. Since the re-testing was being eliminated, the board felt there was no longer a need for the grace period. The rule change eliminates both.

2. Why did the Board eliminate the screening committee for processing exam applications and replace the committee with the Chief Electrical Inspector? **RESPONSE:** The screening committee was eliminated solely to shorten the time of the application process to better serve applicants and contractors. The screening committee met monthly. Staff can handle the same load in a much more timely manner.

3. Could you please explain why the examination fees were increased for certain license holders in Section 010.13-011 of the rule? **RESPONSE:** These are the examination fees charged by the third party testing service under contract with the board. In fact, the testing service is already charging these fees.

4. Concerning Section 010.13-012, what does the board consider as a “reasonable time” to respond to a petition for pre-licensure determination? **RESPONSE:** The board meets every other month. As a result, the longest time would be a request made one day following a board meeting. It would be 59 days. Typically, it would be approximately 30 days.

5. Concerning Section 010.13-012(A)(6),

(a) Is this contained in statute? **RESPONSE:** The language is not contained in Ark. Code Ann. § 17-3-103.

(b) If this is the agency’s position, could you please explain the rationale behind the determination that any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal? **RESPONSE:** The pre-licensure criminal background determination is not an “adjudication” within the meaning of the Administrative Procedure Act, Ark. Code Ann. § 25-15-202. The term “adjudication” is defined as an agency process for the formulation of an order. Ark. Code Ann. § 25-15-202(1)(A). The term “order” is defined as “the final disposition of an agency in any matter other than rulemaking, including licensing and rate making, in which the agency is required by law to make its determination after notice and hearing.” Ark. Code Ann. § 25-15-202(6). This is not a final disposition of a licensing matter, but a preliminary determination that is almost advisory in nature. I would also note that this is the language included in the model language provided by the Office of Attorney General.

6. The rule appears to reference the Career Education and Workforce Development Board’s rules under Ark. Code Ann. § 17-28-313 concerning apprenticeship programs. Have any rules been promulgated by

the Career Education and Workforce Development Board? **RESPONSE:** That Board has not promulgated rules yet, but we have contacted Charles Lyford, counsel for the Office of Skills Development and we are coordinating with him on our next steps. The Office of Skills Development is over the Career Education and Workforce Development Board.

7. The rules state that if a licensee fails to complete the required continuing education hours before the end of each NEC cycle, the Board may, after hearing, deny renewal of a license for cause.

(a) Could you please explain the rationale for this? **RESPONSE:** It is statutory.

(b) Could you please provide statutory authority for this? **RESPONSE:** Ark. Code Ann. § 17-28-311 provides if a licensee fails to obtain the required continuing education hours, the licensee may not renew his license until they are obtained and all fees and penalties are paid. Ark. Code Ann. § 17-28-311(c) provides that the board shall promulgate rules to set standards of continuing education.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rules have a financial impact. Specifically, the agency explained that the rule provides a fee waiver for certain low income individuals pursuant to Act 725 of 2021, which will have a negative impact on revenues. The extent or amount is unknown, as the board has no historical data concerning the economic status of its applicants.

LEGAL AUTHORIZATION: The Board of Electrical Examiners of the State of Arkansas has the duty to adopt rules necessary for the implementation of Title 17, Chapter 28 of the Arkansas Code concerning electricians. *See* Ark. Code Ann. § 17-28-202(a)(1). The proposed rules implement Acts 135, 720, 725, 746, and 748 of 2021.

Act 135 of 2021, which was sponsored by Senator Ricky Hill, established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021, and modified the automatic occupational licensure requirements for uniformed service members, returning uniformed service veterans, and their spouses.

Act 720 of 2021, which was sponsored by Representative Cindy Crawford, amended the restricted lifetime master electrician license and created a restricted lifetime journeyman electrician license.

Act 725 of 2021, which was sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals.

Act 746 of 2021, which was sponsored by Representative Clint Penzo, authorized occupational or professional licensure for certain individuals holding federal work permits.

Act 748 of 2021, which was sponsored by Representative Bruce Cozart, amended occupational criminal background checks. The Act allowed agencies to grant waivers for certain criminal offenses which would have previously resulted in permanent disqualification from occupational licensure.

b. SUBJECT: Section 010.13-008, The National Electrical Code

DESCRIPTION: The purpose of the proposed rule is to update the state electrical code and standards for the conduct of electrical work from the 2017 edition of the National Electrical Code to the 2020 edition of National Electrical Code.

PUBLIC COMMENT: A public hearing was held on May 17, 2022. The public comment period expired on May 17, 2022. The board received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rules have a financial impact. The agency disclosed a cost of up to \$945 for the current and next fiscal years to private individuals, entities, and businesses subject to the rule. Specifically, the agency explained:

There may be additional costs of new construction. It will vary depending on the size of the construction project and the options selected by the owner or builder. This is particularly true for commercial projects. For residential projects, the board's Chief Inspector estimates that for an all-electric 1500 square foot home, the maximum additional cost would be \$945.

LEGAL AUTHORIZATION: The Board of Electrical Examiners of the State of Arkansas has authorization to adopt rules to establish statewide standards for the construction, installation, and maintenance of electrical facilities and the performance of electrical work. *See Ark. Code Ann. § 20-31-104(a)*. Concerning updated to and new editions of the National Electric Code, the board, after notice and public hearing, shall adopt such

changes and editions that it deems necessary to ensure the public health and safety. *See* Ark. Code Ann. § 20-31-104(c).

7. **DEPARTMENT OF LABOR AND LICENSING, DIVISION OF LABOR, ELEVATOR SAFETY BOARD (Miles Morgan, Dan Parker, Lindsay Moore)**

a. **SUBJECT: Administrative Rules Pertaining to the Licensing of Elevator Mechanics**

DESCRIPTION: The Elevator Safety Board is proposing changes to its rules. The proposed amendments would accomplish the following:

1. Amend the board's rule on license and examination fees to provide for an initial fee waiver for certain individuals pursuant to Act 725 of 2021;
2. Amend the board's rule on automatic licensure for military personnel and their spouses to conform to Act 135 of 2021;
3. Create a new rule for the recognition of apprenticeship programs pursuant to Act 811 of 2021;
4. Clarify the renewal fee within six (6) months of expiration is equal to the sum of the old renewal fee and late fee;
5. Reflect statutory changes from prior sessions:
 - Ark. Code Ann. § 20-24-105 requires the board consist of six (6) members.
 - Ark. Code Ann. § 20-24-113(c) reflects the change of inspection report fee from one hundred dollars (\$100.00) to three hundred fifty dollars (\$350.00); and
6. Make grammatical and stylistic changes as a result of government transformation.

PUBLIC COMMENT: A public hearing was held on May 19, 2022. The public comment period expired on May 19, 2022. The board received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The board indicated that the amended rules have a financial impact. Specifically, the board explained that the rule providing a fee waiver for certain low income individuals pursuant to Act 725 of 2021 will have a negative impact on revenues. The extent or amount is unknown, as the board has no historical data concerning the economic status of its applicants.

LEGAL AUTHORIZATION: The Elevator Safety Board has the duty to license elevator inspectors, elevator mechanics, and elevator contractors

as provided in Title 20, Chapter 24 of the Arkansas Code and to revoke or suspend any such license for cause. *See* Ark. Code Ann. § 20-24-106(a). The board has authority to determine what rules governing the qualifications, training, and duties of elevator operators and the operation, maintenance, construction, alteration, and installation of elevators, dumbwaiters, and escalators and the inspection and tests of new and existing installations are adequate, reasonable, and necessary to provide for the safety of life, limb, and property and to protect the public welfare. *See* Ark. Code Ann. § 20-27-106(b). Upon the determination, the board shall make, amend, or repeal from time to time rules regarding: the maintenance, inspection, tests, and operation of all elevators and escalators; the construction of new elevators, dumbwaiters, and escalators; the alteration of existing elevators, dumbwaiters, and escalators; prescribing minimum safety requirements for all existing elevators, dumbwaiters, and escalators; prescribing the fees for construction permits, operating permits, acceptance inspections, initial inspections, and periodic inspections for new and existing elevators, escalators, and dumbwaiters; and the revocation, suspension, nonrenewal, and reinstatement of licenses and for the imposition of lesser disciplinary measures. *See* Ark. Code Ann. § 20-24-106(c). The amended rules implement Acts 135, 725, and 811 of 2021.

Act 135 of 2021, which was sponsored by Senator Ricky Hill, established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021, and modified the automatic occupational licensure requirements for uniformed service members, returning uniformed service veterans, and their spouses.

Act 725 of 2021, which was sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals.

Act 811 of 2021, which was sponsored by Representative Joshua Bryant, created the Earn and Learn Act, and allowed individuals to work and earn a paycheck while also fulfilling licensing requirements and gaining skills to fill the needs of an expanding workforce.

8. DEPARTMENT OF LABOR AND LICENSING, DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS AND COMMISSIONS, ARKANSAS HOME INSPECTOR REGISTRATION BOARD (Miles Morgan, Charlotte London)

a. SUBJECT: Rules and Procedures of the Arkansas Home Inspector Registration Board

DESCRIPTION: The Arkansas Home Inspector Registration Board is seeking legislative review and approval of proposed amendments to the board's rules. These amendments are primarily the result of legislative enactments in 2019 and 2021. In addition, there are a few amendments addressing stylistic and grammatical changes, as well as repealing obsolete language. There is also one amendment requiring completion of three (3) home inspections as part of the pre-registration education process. A summary of the proposed rules include:

Section 300-Registration and Renewal Requirements & Procedures

- Delete reference to “good moral character;”
- Amends rule to provide for pre-licensure criminal background determination of qualification per Act 990 of 2019 and Act 748 of 2021;
- Changes “GED” requirement to “high school equivalency diploma;”
- Explicitly provide for registration eligibility for individuals with a federal work permit per Act 746 of 2021;
- Requires an applicant to complete three (3) on-site inspections under the supervision of a registered home inspector as part of the pre-registration education process;
- Adds provision regarding reciprocity in conformity with Act 426 and 1011 of 2019;
- Provides for automatic licensure for uniformed service members, veterans and spouses per Act 820 of 2019 and Act 135 of 2021;
- Provides for an initial fee waiver for certain individuals pursuant to Act 725 of 2021;

Sections 401, 610 and 710

- Makes stylistic and grammatical changes; and

Section 401

- Eliminates obsolete language.

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on June 8, 2022. The board received no comments.

The proposed effective date is August 1, 2022.

FINANCIAL IMPACT: The board indicated that the amended rules have a financial impact, explaining that the proposed amendment providing a fee waiver for certain low income individuals pursuant to Act 725 of 2021 will have a negative impact on board revenues, although it will be a cost savings to qualified applicants. The board stated that the extent or amount is unknown, as the board has no historical data concerning the economic status of its applicants.

LEGAL AUTHORIZATION: The duties and functions of the Arkansas Home Inspector Registration Board include the following: (1) to carry out the provisions of the Arkansas Home Inspectors Registration Act, § 17-52-301 et seq.; (2) to review, approve or reject registration applications and issue registration certificates to applicants; (3) to establish a mandatory continuing education program; (4) to establish administrative procedures for disciplinary proceedings; (5) to establish procedures for processing and resolving complaints against home inspectors conducting inspections in Arkansas; (6) to develop competency exams for home inspectors; (7) to establish a standard of practice and code of ethics for home inspectors; (8) enter into agreements with other states, territories, districts, or possessions of the United States concerning registration or licensing requirements acceptable between Arkansas and the other entities; and (9) establish educational requirements for registration, including the standards and procedures for approval of educational programs. *See* Ark. Code Ann. § 17-52-306. The amended rules implement Acts 135, 725, 746, and 748 of 2021.

Act 135 of 2021, which was sponsored by Senator Ricky Hill, established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021, and modified the automatic occupational licensure requirements for uniformed service members, returning uniformed service veterans, and their spouses.

Act 725 of 2021, which was sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals. The Act required licensing entities to promulgate rules as necessary for the Act's implementation. *See* Ark. Code Ann. § 17-5-105(2).

Act 746 of 2021, which was sponsored by Representative Clint Penzo, authorized occupational or professional licensure for certain individuals holding federal work permits.

Act 748 of 2021, which was sponsored by Representative Bruce Cozart, amended occupational criminal background checks allowing agencies to grant waivers for certain criminal offenses which would have previously resulted in permanent disqualification from occupational licensure.

9. **DEPARTMENT OF LABOR AND LICENSING, DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS AND COMMISSIONS, CONTRACTORS LICENSING BOARD (Gregory Crow)**

a. **SUBJECT: Residential Contractors Committee Rules 224-25-5-9 and 224-25-6-1 et seq. – Creating a Process for Registration of Residential Roofers**

DESCRIPTION: The Contractors Licensing Board is amending its rules concerning residential roofer registration, creating a process for registration of residential roofers. This rule is necessary to comply with Act 1072 of 2021.

PUBLIC COMMENT: A public hearing was held on June 7, 2022. The public comment period expired on June 7, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rules have a financial impact. The agency stated that individuals or entities seeking roofer registration issued by the Residential Contractors Committee may benefit financially, as the cost of registration is less than the cost of licensure. The agency provided the following explanation:

The Rule sets the cost of the roofer registration at \$20, which is for both new and renewal registrations. This is less than the licensing fee for Home Improvement contractors (which is \$50 for a new application, and \$25 for renewals.) There were approximately 1,700 home improvement contractors with a roofing classification as of January 1, 2022. Some of them will not register as a roofer, as while they had that classification, they were not in fact performing roofing. There will be a cost savings for some contractors (\$30 for the first year, \$5 for renewals.) The agency estimated approximately 1,000 contractors.

LEGAL AUTHORIZATION: This rule implements Act 1072 of 2021, sponsored by Representative Mark Lowery, which amended the law regarding contractors, required registration of roofing contractors, and authorized the Residential Contractors Committee to issue roofing contractor registration certificates. The Residential Contractors

Committee has authority to: (1) issue, modify, suspend, and revoke a roofing contractor registration certificate issued by the committee; (2) establish qualifications for roofing contractor registration certificates issued by the committee; (3) enforce Title 17, Chapter 25, Subchapter 6 of the Arkansas Code, concerning a roofing contractor registration certificate, and the rules of the committee; and (4) issue rules necessary for the implementation of the subchapter. *See* Ark. Code Ann. § 17-25-602(1)–(4), as amended by Act 1072 of 2021.

b. SUBJECT: Residential Contractors Committee Rules 224-25-5-1 et seq. – Creating Process for Military Licensure

DESCRIPTION: The Residential Contractors Committee is amending its rules to create a process for expediting an initial license application for individuals who are uniformed service members in accordance with Act 135 of 2021.

PUBLIC COMMENT: Because this rule recommends an expedited process for military personnel to attain occupational licensure, this rule underwent review pursuant to Ark. Code Ann. § 17-4-109, as amended by Act 135 of 2021, by the Administrative Rules Subcommittee at its meeting of April 20, 2022. A public hearing was held in this matter on June 7, 2022. The public comment period expired on June 7, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rules do not have a financial impact.

LEGAL AUTHORIZATION: The Residential Contractors Committee may:

(1) issue, modify, suspend, and revoke licenses issued by the committee; (2) establish qualifications for licenses issued by the committee; and (3) issue rules necessary for the implementation of Title 17, Chapter 25, Subchapter 5 of the Arkansas Code, concerning the Residential Contractors Committee. *See* Ark. Code Ann. § 17-25-504(1), (2), and (4). This rule implements Act 135 of 2021, sponsored by Senator Ricky Hill, which established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021, and modified the

automatic occupational licensure requirements for uniformed service members, returning uniformed service veterans, and their spouses.

c. **SUBJECT: Residential Contractors Committee Rules 224-25-5-3 – Applicants with Criminal Backgrounds**

DESCRIPTION: The Residential Contractors Committee is proposing changes to Rule 224-25-5-3, removing reference to “permanent” disqualification for certain criminal offenses and providing that certain criminal offenses will result in disqualification for licensure unless a waiver is granted.

PUBLIC COMMENT: A public hearing was held in this matter on June 7, 2022. The public comment period expired on June 7, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rules do not have a financial impact.

LEGAL AUTHORIZATION: The Residential Contractors Committee may: (1) issue, modify, suspend, and revoke licenses issued by the committee; (2) establish qualifications for licenses issued by the committee; and (3) issue rules necessary for the implementation of Title 17, Chapter 25, Subchapter 5 of the Arkansas Code, concerning the Residential Contractors Committee. *See* Ark. Code Ann. § 17-25-504(1), (2), and (4). This rule implements Act 748 of 2021, sponsored by Representative Bruce Cozart, which amended occupational criminal background checks.

d. **SUBJECT: Residential Contractors Committee Rules 224-25-5-16 – Creating Process for Fee Waiver Per Act 725 of 2021**

DESCRIPTION: The Residential Contractors Committee is amending its rules to create a process for waiver of an initial license fee for individuals. The rules clarify the obligations of applicants seeking a waiver and are necessary to comply with Act 725 of 2021.

PUBLIC COMMENT: A public hearing was held in this matter on June 7, 2022. The public comment period expired on June 7, 2022. The

agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rules have a financial impact, and provided the following explanation: There will be no cost to any applicant for licensure. There will be a minor cost to the agency which is unknown, because the agency does not know how many fee waivers will be issued. So far this year, the agency has approved less than 20 waivers. It is estimated that the impact on the agency will be minimal.

LEGAL AUTHORIZATION: The Residential Contractors Committee may: (1) issue, modify, suspend, and revoke licenses issued by the committee; (2) establish qualifications for licenses issued by the committee; and (3) issue rules necessary for the implementation of Title 17, Chapter 25, Subchapter 5 of the Arkansas Code, concerning the Residential Contractors Committee. *See* Ark. Code Ann. § 17-25-504(1), (2), and (4). The amended rules implement Act 725 of 2021, sponsored by Senator Ben Gilmore, which created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals.

e. **SUBJECT: Contractors Licensing Board Rule 224-25-1-13 – Clean-up Language**

DESCRIPTION: The Contractors Licensing Board is amending its rules concerning classification and experience pursuant to Act 805 of 2019.

PUBLIC COMMENT: A public hearing was held in this matter on June 7, 2022. The public comment period expired on June 7, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

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

QUESTION: Could you please explain why the agency chose to amend the classification and experience language in 224-25-5? **RESPONSE:** To clarify that a contractor can perform project management for any type of project for which it has a license. Not just contractors holding one of the major classifications.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rules do not have a financial impact.

LEGAL AUTHORIZATION: The Contractors Licensing Board is authorized to make such bylaws and rules for its operation as it shall consider appropriate, provided that they are not in conflict with the laws of the State of Arkansas. *See* Ark. Code Ann. § 17-25-203(a).

f. **SUBJECT: Contractors Licensing Board Rule 224-25-1-13 – Bond in Lieu of Financial Statement**

DESCRIPTION: The Contractors Licensing Board is amending its rules pursuant to Act 805 of 2019 to allow for a person or entity licensed by the board to provide a surety bond in lieu of providing a financial statement.

PUBLIC COMMENT: A public hearing was held in this matter on June 7, 2022. The public comment period expired on June 7, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rules do not have a financial impact.

LEGAL AUTHORIZATION: The Contractors Licensing Board is authorized to make such bylaws and rules for its operation as it shall consider appropriate, provided that they are not in conflict with the laws of the State of Arkansas. *See* Ark. Code Ann. § 17-25-203(a). In addition, the board has authority to adopt rules necessary to enforce Ark. Code Ann. § 17-25-304(c), concerning the provision of a surety bond in lieu of providing a financial statement for a person or entity required to be licensed or registered by the board. *See* Ark. Code Ann. § 17-25-304(c)(5).

g. SUBJECT: Contractors Licensing Board Rule 224-25-1-13 – Subcontractor Registration

DESCRIPTION: Pursuant to Act 805 of 2019, the Contractors Licensing Board is amending its rules to provide for registration in addition to licensure.

PUBLIC COMMENT: A public hearing was held in this matter on June 7, 2022. The public comment period expired on June 7, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency stated that the proposed rules have a financial impact. The agency explained that companies or individuals seeking registration rather than licensure would benefit monetarily. However, this may cause some revenue loss to the agency depending on the number of companies or individuals who seek registration rather than licensures. The agency does not anticipate a significant impact.

LEGAL AUTHORIZATION: The Contractors Licensing Board is authorized to make such bylaws and rules for its operation as it shall consider appropriate, provided that they are not in conflict with the laws of the State of Arkansas. *See* Ark. Code Ann. § 17-25-203(a). In addition, the board has authority to issue rules necessary for the implementation of a registration process and determination of application fees for registration for subcontractors of a licensed contractor who are properly registered with the board under Title 17, Chapter 25 of the Arkansas Code, concerning contractors. *See* Ark. Code Ann. § 17-25-102(4)(B)(i)–(ii).

h. SUBJECT: Contractors Licensing Board Rule 224-25-2 et seq. – Creating Process for Military Licensure

DESCRIPTION: The Contractors Licensing Board is amending its rules to create a process for licensure of uniformed service members in accordance with Act 135 of 2021.

PUBLIC COMMENT: Because this rule recommends an expedited process for military personnel to attain occupational licensure, this rule underwent review pursuant to Ark. Code Ann. § 17-4-109, as amended by

Act 135 of 2021, by the Administrative Rules Subcommittee at its meeting of April 20, 2022. A public hearing was held in this matter on June 7, 2022. The public comment period expired on June 7, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rules do not have a financial impact.

LEGAL AUTHORIZATION: The Contractors Licensing Board is authorized to make such bylaws and rules for its operation as it shall consider appropriate, provided that they are not in conflict with the laws of the State of Arkansas. *See* Ark. Code Ann. § 17-25-203(a). This rule implements Act 135 of 2021, sponsored by Senator Ricky Hill, which established the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021, and modified the automatic occupational licensure requirements for uniformed service members, returning uniformed service veterans, and their spouses.

i. **SUBJECT: Contractors Licensing Board Rule 224-25-15 – Creating Process for Fee Waiver**

DESCRIPTION: The Contractors Licensing Board is amending its existing rules to create a process for initial license fee waiver for certain applicants pursuant to Act 725 of 2021.

PUBLIC COMMENT: A public hearing was held in this matter on June 7, 2022. The public comment period expired on June 7, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

Suba Desikan, an attorney with the Bureau of Legislative Research, asked the following questions and received the following answers thereto:

1. What was the board’s reasoning behind including the solo proprietor requirement in the rule? **RESPONSE:** The statute in question discussed

an application of an individual. A corporation, LLC, or Partnership cannot, as we understand it, apply for any of the benefits discussed. We were advised by the Department of Labor and Licensing that this Act would only apply to individual applicants.

2. Is there any statutory authority which allows the agency to deny or revoke a license for fraudulent or fraudulently obtained documentation for the fee waiver? If so, please provide the statutory citation. **RESPONSE:** Ark. Code Ann. § 17-25-308. Grounds for revocation. ”(a) The Contractors Licensing Board may revoke the certificate of license or registration of any contractor licensed or registered under this chapter who is found guilty of any fraud or deceit in obtaining a license or registration...”

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rules have a financial impact, explaining that there will be a minor cost to the agency as there will be some fees that will not be charged. The agency does not know how many fee waivers will be issued, but so far this year they have approved less than 20. The agency stated that the impact on the agency will be minimal and that there will be no cost to any applicant.

LEGAL AUTHORIZATION: The Contractors Licensing Board is authorized to make such bylaws and rules for its operation as it shall consider appropriate, provided that they are not in conflict with the laws of the State of Arkansas. *See* Ark. Code Ann. § 17-25-203(a). The amended rules implement Act 725 of 2021, sponsored by Senator Ben Gilmore, which created the Workforce Expansion Act of 2021 and required waiver of initial occupational and professional licensure fees for certain individuals.

j. **SUBJECT: Contractors Licensing Board Rule 224-25-3 – Eliminates Reference to Permanently Disqualifying Offenses**

DESCRIPTION: The Contractors Licensing Board is proposing changes to Rule 224-25-3, eliminating reference to permanently disqualifying criminal offenses pursuant to Act 748 of 2021.

PUBLIC COMMENT: A public hearing was held in this matter on June 7, 2022. The public comment period expired on June 7, 2022. The agency provided the following summary of the comment it received and its response thereto:

Commenter: Scott Wallace, President of Reliant Roof Pros

Summary: The commenter offered support for the proposed rules.

Response: We thanked the person that made the comment.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rules do not have a financial impact.

LEGAL AUTHORIZATION: The Contractors Licensing Board is authorized to make such bylaws and rules for its operation as it shall consider appropriate, provided that they are not in conflict with the laws of the State of Arkansas. *See* Ark. Code Ann. § 17-25-203(a). This rule implements Act 748 of 2021, sponsored by Representative Bruce Cozart, which amended occupational criminal background checks.

**10. DEPARTMENT OF PUBLIC SAFETY, DIVISION OF ARKANSAS
STATE POLICE (Cody Hiland)**

a. SUBJECT: Law Enforcement Family Relief Trust Fund

DESCRIPTION: The Law Enforcement Family Relief Check-off Program and Law Enforcement Family Relief Trust Fund were created by Act 765 of 2021 of the General Assembly. These are the joint proposed rules of the Department of Finance and Administration and the Department of Public Safety, establishing eligibility criteria and requirements to allow for the implementation, funding mechanisms, and various provisions related to the administration of the Law Enforcement Family Relief Trust Fund.

Following expiration of the public comment period, the agency amended the rules to establish a ceiling for the grants and to set a 10-day timeframe within which eligible families and officers may receive the grant.

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on February 22, 2022. The agency indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rules do not have a financial impact.

LEGAL AUTHORIZATION: Act 765 of 2021, which was sponsored by Representative Mark Berry, established the Law Enforcement Family Relief Check-off Program and the Law Enforcement Family Relief Trust Fund. The Secretary of the Department of Public Safety shall promulgate

all rules necessary to implement the grant program created under Ark. Code Ann. § 26-51-2511, concerning the Law Enforcement Family Relief Check-off Program. *See* Ark. Code Ann. § 26-51-2511(d)(4), as amended by Act 765, § 2.

11. SALINE COUNTY REGIONAL SOLID WASTE MANAGEMENT DISTRICT BOARD (Tiffany Dunn, Sam Gibson)

a. SUBJECT: Rule 22.202 Regarding Requirements for Solid Waste Hauler Licenses and Vehicle Permits

DESCRIPTION: The SCRSWMD Board is required by statute to license and regulate the business activity within the District of the persons and entities affected by this Rule. This amendment is necessary to conform the District’s license application requirements regarding sales tax collection authority to documents that are readily available to applicants from DFA.

The proposed Rule amends the existing Rule only by changing and updating the documentation required of license applicants to confirm that they are properly qualified to collect Arkansas Sales and Use Taxes in connection with their business activities licensed under the Rule.

PUBLIC COMMENT: A public hearing was held on this rule on April 20, 2022. The public comment period expired on April 20, 2022. The agency indicated that it received no public comments.

The proposed effective date is January 1, 2023.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: Regional solid waste management boards have the authority to issue licenses for solid waste haulers. Ark. Code Ann. § 8-6-721(a). The boards may adopt rules “as are reasonably necessary” to administer their duties and ensure public participation in their findings and rulings. Ark. Code Ann. § 8-6-704(a)(6).

- E. Proposed rules recommending an expedited process for occupational licensure pursuant to Ark. Code Ann. § 17-4-109, as amended by Act 135 of 2021**
 - 1. DEPARTMENT OF HEALTH, ARKANSAS STATE BOARD OF DENTAL EXAMINERS (Matt Gilmore)**
 - a. Article IX: Credentials Required in Issuing Dental or Dental Hygiene License**

- F. Agency updates on the status of outstanding rulemaking pursuant to Act 595 of 2021, by those agencies having other business before the Subcommittee**
 - 1. Department of Energy and Environment (Julie Linck)**
 - a. APC&EC Rule 27 (Acts 749 and 773)**

 - 2. Department of Finance and Administration, Revenue Division (Alicia Austin Smith)**
 - a. Law Enforcement Family Relief Trust Fund (Act 765)**
 - b. Rules Concerning a Sales and Use Tax Exemption for Sales of Water Used Exclusively in the Operation of a Poultry Farm (Act 970)**

 - 3. Department of Health, Division of Health-Related Boards (Matt Gilmore)**
 - a. Rules by the Arkansas State Board of Dental Examiners (Acts 135, 651, 725, 748, and 1101)**
 - b. Rules by the Board of Examiners in Speech-Language Pathology and Audiology (Acts 135, 153, 746, 767, 829, and 968)**
 - c. Rules by the Arkansas State Medical Board (Acts 503, 634, 725, 803, 829, 1101, and 1112)**
 - d. Rules by the Full Independent Practice Committee (Acts 412 and 769)**

 - 4. Department of Health, State Board of Health (Laura Shue)**
 - a. Rules Governing the Advisory Board for Interpreters Between Hearing Individuals and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf and Rules Governing the Licensure of Provisional and Qualified Interpreters (Acts 135 and 725)**
 - b. Rules for Home Health Agencies in Arkansas (Act 817)**

- c. **Massage Therapy (Acts 135, 725, 748, and 811)**
 - d. **Rules Pertaining to the State Board of Sanitarians (Acts 135 and 725)**
 - e. **Rules Pertaining to Water Operator Licensing (Acts 135, 725, and 811)**
 - f. **Rules for Hospices in Arkansas (Act 311)**
 - g. **Rules Governing Medical Marijuana Registration, Testing, and Labeling (Act 1112)**
 - h. **Rules for Abortion Facilities (Acts 346, 498, 560, 562, 740, 787, and 949)**
 - i. **Rules for Cosmetology, Body Art, Permanent and Semi-Permanent Cosmetics (Act 900)**
 - j. **Rules for Volunteer Licensed Health Care Professionals Immunity (Act 968)**
- 5. Department of Labor and Licensing (Miles Morgan, Dan Parker)**
- a. **Rules by the Board of Electrical Examiners of the State of Arkansas (Acts 135, 720, 725, 746, and 748)**
 - b. **Rules by the Elevator Safety Board (Acts 135, 725, and 811)**
 - c. **Rules by the Arkansas Home Inspector Registration Board (Acts 135, 725, 746, and 748)**
 - d. **Rules by the Contractors Licensing Board (Acts 135, 725, 748, 762, 826, and 1072)**
 - e. **Rules by the State Athletic Commission (Acts 135, 725, and 748)**
 - f. **Rules by the Arkansas Towing and Recovery Board (Acts 789 and 794)**
- 6. Department of Public Safety (Cody Hiland)**
- a. **Law Enforcement Family Relief Trust Fund (Act 765)**
- G. Monthly written agency updates pursuant to Act 595 of 2021**
- H. Adjournment**