

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

Thursday, August 25, 2022

9:00 a.m.

Room A, MAC

Little Rock, Arkansas

- A. Call to Order**
- B. Reports of the Executive Subcommittee**
- C. Reports on Administrative Directives Pursuant to Act 1258 of 2015, for the Quarter Ending June 30, 2022 (Lindsay Wallace)**
 - 1. Department of Corrections**
 - 2. Parole Board**
- D. Rules Filed Pursuant to Ark. Code Ann. § 10-3-309**
 - 1. DEPARTMENT OF HEALTH, ARKANSAS STATE MEDICAL BOARD
(Amy Embry, Matt Gilmore)**
 - a. SUBJECT: Rule No. 12: Dispensing**

DESCRIPTION: The Arkansas State Medical Board (“ASMB”) is seeking review and approval of a proposed amendment to Rule 12 concerning physician dispensing. Act 503 of 2021 requires ASMB to adopt rules for physician dispensing that, at minimum, meet the same requirements for dispensing and oversight established by the Arkansas State Board of Pharmacy. The amended rules define responsibilities of the physician and his/her delegate(s) and recordkeeping.

Following the conclusion of the public comment period, the board submitted a revised markup, in which the rule was broken into two sections as requested by the Arkansas Medical Society.

PUBLIC COMMENT: A public hearing was held on March 22, 2022. The public comment period expired on March 22, 2022. The agency provided the following summary of comments it received and its responses thereto:

Commenter: David Wroten, Arkansas Medical Society

Comment Summary: The commenter requested that the rule be broken into two sections. The first would include the dispensing requirements for all physicians and the second would include what is required to obtain prior approval for dispensing, and the exemptions from the requirement.

Agency Response: The board agreed with these recommendations. The rule was broken into two sections.

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

1. In Section I(2)(c)(ii), you define “initial treatment for maintenance medication.” Arkansas Code Ann. § 17-95-102(f)(2) defines “initial treatment” and (f)(3) defines “maintenance medication.” The definition in the rule only encompasses the definition of “maintenance medication” as provided in the statute. Could you please explain why the definition of “initial treatment” was not included in the rule? **RESPONSE:** The only statutory changes made were related to initial treatment for maintenance medications. Act 503 makes no mention of anything after the initial treatment. There were no changes to subsequent maintenance visits.

2. Concerning Section II(2) and (3) of the rule,

(a) what is the source of the language?

(b) why was it added to this rule?

RESPONSE: The language was taken from the Board of Pharmacy’s Lawbook – sections 4-00-0009, 4-00-0010, and 04-00-0013 to meet the requirements of Ark. Code Ann. § 17-95-102(e)(2).

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 Arkansas State Medical Board shall enforce the provisions of Ark. Code Ann. § 17-95-102 concerning legend drugs and is authorized and directed to adopt rules to carry out the purpose of the section. *See* Ark. Code Ann. § 17-95-102(e)(1). The rules for physician dispensing shall, at minimum, meet the same requirements for dispensing and oversight established by the Arkansas State Board of Pharmacy. *See* Ark. Code Ann. § 17-95-102(e)(2), *as amended by* Act 503 of 2021.

The proposed rule implements Act 503 of 2021, sponsored by Representative Lee Johnson, which allowed pharmacists to treat certain health conditions, modified physician dispensing, and allowed the delegation of physician dispensing.

b. **SUBJECT: Rule No. 24: Physician Assistants**

DESCRIPTION: The Arkansas State Medical Board (“ASMB”) is seeking review and approval of proposed amendments to Rule 24 concerning physician assistants. In accordance with Act 634 of 2021, the proposed rule:

- Amends prescribing authority to include Schedule 2 with limitations;
- Removes the supervising physician’s name from any prescription by the physician assistant;
- Amends paperwork required to be submitted to ASMB;
- Allows physician assistants to pronounce death;
- Allows physician assistants to render care within his/her scope of practice due to an emergency or a state or local disaster.

Following the conclusion of the public comment period, the board submitted a revised markup, in which it clarified language concerning the prescribing of hydrocodone products by physician assistants.

PUBLIC COMMENT: A public hearing was held on March 22, 2022. The public comment period expired on March 22, 2022. The agency provided the following summary of comments it received and its responses thereto:

Commenter: Ann Brown, PA-C, President, Arkansas Academy of Physician Assistants

Summary: Submitted a letter requesting that the rule be amended to clarify that the five day limit of schedule II opioid medications does not apply to hydrocodone combination products, which Physician Assistants were already permitted to prescribe without limits prior to the rule change. A second comment was made to amend the CME requirements in this rule as it pertains to the changes in prescriptive authority. Ms. Brown also spoke at the public hearing on March 22, 2022 on the same matter.

Response: The Board accepted the public comments and amended the rule regarding the Hydrocodone combination products. The Board did not amend the CME requirements as this issue is addressed in Rule 17.

Commenter: Emily Tyree, PA-C

Summary: Submitted an email dated March 18, 2022 in support of the changes made to Rule 24.

Response: The Board accepted the public comment.

The proposed effective date is pending legislative review and approval.

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

LEGAL AUTHORIZATION: The Arkansas State Medical Board shall promulgate rules that are reasonable and necessary for the performance of the various duties imposed upon the board by Title 17, Chapter 105 concerning physician assistants. *See* Ark. Code Ann. § 17-105-117(a). In addition, the Arkansas State Medical Board “shall administer the provisions of the chapter [referenced] under such procedures as it considers advisable and may adopt rules that are reasonable and necessary to implement the provisions of [the] chapter. Further, it is the intent of the General Assembly that the board on behalf of the General Assembly shall make rules clarifying any ambiguities or related matters concerning this chapter, which may not have been specifically addressed.” *See* Ark. Code Ann. § 17-105-118.

The amended rule implements Act 634 of 2021, sponsored by Senator Kim Hammer, which amended the membership of the Arkansas State Medical Board and amended the supervision and prescriptive authority of physician assistants.

c. **SUBJECT: Rule No. 46: Administrative Fees and Renewal Fees**

DESCRIPTION: The Arkansas Department of Health, Arkansas State Medical Board is seeking review of a proposed rule regarding administrative and renewal fees. The proposed changes were required by Acts 725, 1101, and 803 of 2021 to provide information regarding any required waivers, administrative fees and costs, and a multi-year license for physicians.

PUBLIC COMMENT: A public hearing was held on March 22, 2022. The public comment period expired on March 22, 2021. The board indicated that it received no comments.

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

1. Does this rule propose any new fees? **RESPONSE:** Only one; the \$440 fee for a two-year renewal for physicians per Act 803 of 2021.

FOLLOW-UP: Other than the new fee pursuant to Act 803, are any fees being added or removed by this rule? **RESPONSE:** No.

FOLLOW-UP: Are any existing fee amounts being increased or decreased by this rule? **RESPONSE:** No.

2. Concerning the return check fee and the replacement wall certificate fee listed under the miscellaneous section, could you please provide

statutory authority for these fees? **RESPONSE:** The returned check fee is not part of the Medical Board statutes. When a check is returned to the Treasury/Department of Health due to insufficient funds, they are notified by the Department of Health and the statutes listed are Ark. Code Ann. §§ 5-37-302 through 5-37-307. This has been included on the fee list to inform the applicants that an additional fee will be charged. In regards to the wall certificate, there is not authority. [A revised markup was submitted removing the fee.]

The proposed effective date is pending legislative review and approval.

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

LEGAL AUTHORIZATION: The Arkansas State Medical Board has authority to make and adopt all rules and bylaws not inconsistent with the laws of this state or of the United States and necessary or convenient to perform the duties and to transact the business required by law. *See* Ark. Code Ann. § 17-95-303(1). In addition, the board has authority to promulgate and put into effect such rules as are necessary to carry out the purposes of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and the intentions expressed therein. *See* Ark. Code Ann. § 17-95-303(2). The proposed rules implement Acts 725, 803, and 1101 of 2021.

Act 725 of 2021, which was sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021.

Act 803 of 2021, which was sponsored by Representative Monte Hodges, authorized a multi-year license or registration for a physician by the Arkansas State Medical Board.

Act 1101 of 2021, which was sponsored by Representative Justin Gonzales, amended Arkansas law concerning administrative fees and penalties and concerning review of agency rules by the Legislative Council.

d. **SUBJECT: Rule No. 38: Telemedicine**

DESCRIPTION: The Arkansas Department of Health, Arkansas State Medical Board is seeking review of a proposed rule amendment. Pursuant to Act 1112 of 2021, the proposed rules allow the use of telemedicine to recertify a patient for a medical marijuana registry card if a patient/provider relationship has been established under Rule 2.8.

PUBLIC COMMENT: A public hearing was held on March 22, 2022. The public comment period expired on March 22, 2022. The board received no comments. At the June 16, 2022 meeting of the Administrative Rules Subcommittee, this rule was held by the Subcommittee for consideration at its August meeting.

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

QUESTION: Act 1112 provides that “a relationship established under rules of the Arkansas State Medical Board may be utilized for telehealth certification.” However, proposed Rule 38 provides that “a patient/provider relationship established under Rule 2.8 may be utilized for medical marijuana recertification by telehealth. Could you please explain why the proposed rules only allow the use of telehealth for recertification? **RESPONSE:** In our review of it and testimony made in the session when the bill was presented in committee and on the floor, this was the intent. We visited with staff, administrators and stakeholders and we agree that the General Assembly, in enacting Act 1112 of 2021 intended to provide for use of electronic technology for renewal applications. We believe it allows for renewal applications only.

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 Arkansas State Medical Board has authority to make and adopt all rules and bylaws not inconsistent with the laws of this state or of the United States and necessary or convenient to perform the duties and to transact the business required by law. *See* Ark. Code Ann. § 17-95-303(1). In addition, the board has authority to promulgate and put into effect such rules as are necessary to carry out the purposes of the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., and the intentions expressed therein. *See* Ark. Code Ann. § 17-95-303(2).

This rule implements Act 1112 of 2021, sponsored by Senator Greg Leding, which amended the definitions of “professional relationship” and “telemedicine” within the Telemedicine Act and allowed telehealth certification for medical marijuana.

2. **DEPARTMENT OF HEALTH, BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY (Matt Gilmore)**

a. **SUBJECT: Board of Examiners in Speech-Language Pathology and Audiology Rules**

DESCRIPTION: The proposed amendments contain the following changes:

- Add language regarding fee waiver for eligible individuals listed in Act 725 of 2021 (Attorney General’s (AG) office model language)
- Language update, licensure extension, and continuing education requirement waiver language updated/added per Act 135 of 2021 (AG’s office model language)
- Remove reference to “permanently disqualifying offenses” per Act 748 of 2021 (AG’s office model language)
- Add language regarding telemedicine per Act 767 of 2021 (AG’s office model language)
- Add language regarding Arkansans’ access to telemedicine per Act 829 of 2021 (AG’s office model language)

Most of the rule changes use model language prepared by the Attorney General’s office to comply with legislative changes that affect multiple boards. The continuing education section changes the current continuing education process to an auditing process.

In response to public comment, the board updated requirements regarding supervision of speech-language pathology assistants (SLPAs).

PUBLIC COMMENT: No public hearing was held on this proposed rule. The public comment period expired on December 31, 2021. The agency opened a second public comment period beginning January 28, 2022. This second public comment period expired on February 28, 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.

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

Q. In light of Act 748 of 2021, is there a reason that the language regarding permanently disqualifying offenses has been retained in § 2.18(A)? **RESPONSE:** The oversight has been corrected.

The proposed effective date is pending legislative review and approval.

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

Per the agency, there will be decreased financial obligation for applicants who qualify and subsequently a reduction in licensure income for the agency. The estimated impact is a reduction of \$16,000.

LEGAL AUTHORIZATION: The Board of Examiners in Speech-Language Pathology and Audiology issues licenses to persons who meet the requirements of Title 17, Chapter 100 of the Arkansas Code, regarding speech-language pathologists and audiologists. Ark. Code Ann. § 17-100-302(a). The Board has authority to promulgate rules regarding educational, clinical experience, and employment requirements for licensees, provisional license terms and conditions, professional conduct, and “the use of speech-language pathology support personnel by practitioners of speech-language pathology.” Ark. Code Ann. §§ 17-100-202(b), -302(b)(2), (f). These rules implement Acts 135, 725, 748, 767, and 829 of 2021.

Act 135, 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 services members, returning uniformed services veterans, and their spouses.

Act 725, sponsored by Senator Ben Gilmore, created the Workforce Expansion Act of 2021.

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

Act 767, sponsored by Representative Aaron Pilkington, clarified the Telemedicine Act, specified that the home of a patient may be an originating site for telemedicine and that group meetings may be performed via telemedicine, and clarified reimbursement of telemedicine services.

Act 829, sponsored by Representative Jim Dotson, amended the Telemedicine Act and authorized additional reimbursement for telemedicine via telephone.

3. **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: 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.

After discussion and debate, the board voted to adopt the 2020 National Electrical Code with the exception of Section 210.8F.

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. This rule originally received legislative review and approval in July 2022; however, the agency subsequently determined that Section B(1) had been mistakenly left in the rule when the mark-up and clean versions were submitted to Bureau Staff. The agency has submitted the corrected rules for review and approval.

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 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 updates 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).

4. **DEPARTMENT OF LABOR AND LICENSING, DIVISION OF LABOR, STATE ATHLETIC COMMISSION** (Miles Morgan, Dan Parker, Lindsay Moore)

a. **SUBJECT: Administrative Rules Pertaining to the State Athletic Commission**

DESCRIPTION: The purpose and necessity of the proposed amendment is to comply with changes from the 2019 and 2021 legislative sessions. Additionally, the commission's current rules contain duplicative language, as well as rules on professional wrestling, which are no longer valid due to Act 923 of 2019. The repeal of the professional wrestling rules and the elimination of duplicative language through reorganization will reduce the commission's rules from 204 pages to 64 pages making the rules more accessible and easier to use. 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. Rule 1.14 regarding uniformed service members and spouses is amended to comply with Act 135 of 2021. It provides for an expedited licensure process due to the blood work requirement;
3. Amend the board's rules to comply with Act 748 of 2021 regarding pre-licensure criminal background checks and waiver requests;
4. Amend the board's rules to comply with current accounting responsibilities and practices;
5. Amend the board's rules to comply with the Arkansas Administrative Procedure Act, Arkansas Code §§ 25-15-208 – 211;
6. Amend the definition of "Act";
7. Raise the surety bond requirement from \$5,000 to \$20,000;
8. Repeal the rules on professional wrestling; and
9. Make grammatical and stylistic changes as a result of government transformation.

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 May 18, 2022. A public hearing was held on April 12, 2022. The initial public comment period expired on June 1, 2022, but was extended through July 1, 2022. The agency indicated that it received no comments.

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

1. Concerning raising the surety bond requirement from \$5,000 to \$20,000, what was the rationale for this change? **RESPONSE:** The commission proposes to raise the surety bond requirement because twice since late 2019, the commission has had to file a claim against the surety bond. In both cases, unpaid expenses exceeded the \$5,000 bond. Fortunately, in the first instance, the commission was able to recover the balance due from the promoter. We are awaiting action on the claim with respect to the most recent event. We will attempt to recover the balance due from the promoter, but that is uncertain. Commission staff advised that \$20,000 is consistent with what neighboring states in a similar position to Arkansas require.

2. Could you please provide fee-making authority for the following sections: 1.12, 2.4.2, and 2.4.6?

RESPONSE:

Section 1.12 License Fees: The authority is Arkansas Code 17-22-302(d), which provides that “Fees for the licenses shall be established by the State Athletic Commission.” *See also* 17-22-204(a)(1)(B)(i).

Section 2.4.2 Event Permit Fee: The authority is Arkansas Code 17-22-302(g), which provides the commission “may set an event permit processing fee not to exceed fifty dollars (\$50.00).”

Section 2.4.6 Surety Bond: The authority is Arkansas Code 17-22-304(a), which requires as a condition to the issuance of a license under 17-22-302, the applicant “shall file with the State Athletic Commission a cashier’s check, an acceptable letter of credit, or a corporate surety bond in an amount to be established by the commission in its rules, but not less than the sum of two thousand dollars (\$2000). . .”

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 estimated a cost to private individuals, entities, and businesses subject to the amended rule of \$500 for the current fiscal year and \$500 for the next fiscal year. The agency explained that the rule raising the surety bond requirement will have a financial impact increasing costs to the promoters. It estimated that cost to be \$500 annually. In addition, the agency stated 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. However, the board has no historical data concerning the economic status of its applicants, and hence, the extent or amount of impact is unknown.

LEGAL AUTHORIZATION: The State Athletic Commission has authority to:

1. Adopt uniform policies, fees, and forms to ensure fair regulation of the combative sports industry. *See* Ark. Code Ann. § 17-22-204(a)(1)(B)(i);
2. Adopt and promulgate, amend, or abrogate any and all rules considered by it necessary or expedient for the performance of its function as provided in Title 17, Chapter 22, concerning boxing, wrestling, etc. *See* Ark. Code Ann. § 17-22-204(c);
3. Adopt and promulgate, amend, or abrogate any and all rules concerning combative sports. *See* Ark. Code Ann. § 17-22-206; and
4. Require a bond as a condition to the issuance of a license as provided in Ark. Code Ann. § 17-22-302, in an amount established by the commission in its rules, but not less than the sum of two thousand dollars (\$2,000). *See* Ark. Code Ann. § 17-22-304(a).

The amended rules implement Acts 135, 725, 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.

Act 748 of 2021, which was sponsored by Representative Bruce Cozart, amended occupational criminal background checks.

5. **DEPARTMENT OF PUBLIC SAFETY, DIVISION OF LAW**
ENFORCEMENT STANDARDS AND TRAINING (JR Hankins, Brad King)

a. **SUBJECT: Law Enforcement Stipend Rules**

DESCRIPTION: Pursuant to Act 224 of 2022, the Division of Law Enforcement Standards and Training is required to promulgate rules establishing a review process to determine: 1. Whether a person was properly denied payment of the salary stipend for failure to satisfy the requirements necessary to qualify as an eligible full-time law enforcement officer; and 2. Whether a person was properly required to return the salary stipend. The proposed rules were approved as emergency rules by the Arkansas Legislative Council Executive Subcommittee on May 17, 2022. The rules are now being promulgated as permanent rules.

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on June 27, 2022. The agency indicated that it received no comments.

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

1. Part A, (1) – The definition of “eligible local law enforcement agency” appears to differ from the statutory definition. Specifically, “drug task force” is included in the definition in the rule, but is not specifically mentioned in the Act 224 of 2022. Could you please explain why this category was added to the rule? **RESPONSE:** Act 224 defines an “eligible local law enforcement agency” as an Arkansas county or municipal police department that employs an eligible full-time law enforcement officer. Drug Task Force agents are designated as full-time law enforcement officers paid by the county, similar to a Sheriff’s Office. The Drug Task Force category was added to the rule to clarify that a DTF is an eligible county agency.

2. Part A, (2) – Why are “city, town, county, state or other court(s)” and “constable” excluded from the definition of eligible local law enforcement agency? Could you please point out the specific provision of Act 224 of 2022 that excludes these entities? **RESPONSE:** Act 224, in the definition of “eligible full time law enforcement officer,” specifically excludes the following: 1. a bailiff; and 2. an elected law enforcement officer who is not a certified law enforcement officer. Typically, a bailiff is an individual that is employed directly by a court. We added the “city, town, county, state, or other court” to clarify the bailiff exclusion in the Act. Constables are elected officers who do not require certification by CLEST. Because they are an elected official, they are not required to attend the basic academy and are not governed by CLEST.

3. Concerning both review processes established, the rules provide that officers are not entitled to a hearing or to present oral testimony related to their requests for reconsideration.
(a) May an officer request a hearing or to present oral testimony? **RESPONSE:** No, Act 224 requires the Division to establish a review process to determine whether a person was properly denied the stipend or properly required to return the stipend. The review process established in the proposed rules allows for a review by the Secretary of the Department of Public Safety of the documents used by the Division to make the eligibility/repayment determination and the statement and/or information submitted by the officer on the “Request for Reconsideration” form created by the Division (The form can be

found here: <https://www.dps.arkansas.gov/wp-content/uploads/2022/05/Request-for-Reconsideration.pdf>

(b) How will the agency handle such a request? **RESPONSE:** The review process will be initiated when an officer submits the “Request for Reconsideration” form to the Division. Officers will be allowed to submit information and/or documentation supporting their request. The Division will prepare the documents used to make the initial determination and forward them and the officer’s submission to the Secretary of the Department of Public Safety for a final determination.

4. In light of the appeals process outlined in Act 224 of 2022, § 2(i)(6)(B), could you please explain the statement that “determinations by the Secretary are final,” which is included in both appeals procedures? **RESPONSE:** Section (i)(6)(B) of Act 224 relates to an agency’s ability to appeal a decision by the State to impose an administrative penalty on the agency for failure to comply with the Act. The review process outlined in the proposed rules relates to an officer’s ability to seek review of a determination that the officer is not eligible for the stipend or that the officer is required to repay the stipend.
5. How soon following an appeal under the review process will a determination be made by the Secretary? **RESPONSE:** Request for Reconsideration packets will be submitted to the Secretary of the Department of Public Safety immediately on receipt by the Division. The Secretary will review requests in the order they are received and make a final determination as soon as possible to ensure efficient administration of the stipend program.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rules have a financial impact. Specifically, the agency estimated a cost of \$40.46 million to state, county, and municipal government to implement this rule. The agency explained that the revenue impact is based on 7,300 eligible officers receiving a \$5,000 stipend paid by the State of Arkansas and 542 eligible officers receiving a \$2,000 stipend paid by the State of Arkansas. Revenue impact also includes employer share of Social Security and Medicare matching for each stipend paid.

LEGAL AUTHORIZATION: Act 224 of 2022 made an appropriation for law enforcement stipend grants for the Department of Finance and Administration – Disbursing Officer for the fiscal year ending June 30, 2023. Pursuant to the Act, the Division of Law Enforcement Standards and Training of the Department of Public Safety shall promulgate rules

establishing a review process to determine: (1) whether a person was properly denied payment of the salary stipend for failure to satisfy the requirements necessary to qualify as an eligible full-time law enforcement officer; and (2) whether a person was properly required to return the salary stipend. Act 224, § 2.

6. **SOUTHEAST ARKANSAS REGIONAL SOLID WASTE MANAGEMENT DISTRICT (Shane Knight)**

a. **SUBJECT: Certificate of Need Review**

DESCRIPTION: Solid waste haulers, transporters, and processors are required to obtain a Certificate of Need from the solid waste district within which they seek to establish or expand solid waste facilities. This rule sets forth the process by which Certificates of Need are applied for, as well as the criteria the District’s board will use to review such requests.

The original rule was inadvertently missing two (2) pages. This amendment includes those missing pages and updates and corrects some language in the rule.

PUBLIC COMMENT: A public hearing was held on this rule on July 11, 2022. The public comment period expired on July 10, 2022. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

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

LEGAL AUTHORIZATION: Regional solid waste management boards have the authority “to issue or deny certificates of need to any applicant for a solid waste disposal facility permit within their districts” except for specific private landfills. Ark. Code Ann. § 8-6-704(a)(4). The boards also have authority to adopt procedures governing petitions for certificates of need. Ark. Code Ann. § 8-6-706(b)(1). The boards may promulgate rules as are reasonably necessary to administer their duties. Ark. Code Ann. § 8-6-704(a)(6).

E. **Agency Updates on the Status of Outstanding Rulemaking Pursuant to Act 595 of 2021**

1. **Department of Agriculture (Wade Hodge)**

2. **Department of Commerce, State Insurance Department (Booth Rand)**
 3. **Department of Education (Courtney Salas-Ford)**
 4. **Department of Finance and Administration, Revenue Division (Paul Gehring)**
 5. **Department of Health, Division of Health-Related Boards (Matt Gilmore)**
 6. **Department of Health, State Board of Health (Laura Shue)**
 7. **Department of Labor and Licensing (Miles Morgan)**
 8. **Department of Transformation and Shared Services (Lauren Ballard)**
 9. **Office of Arkansas Lottery (Brent Standridge)**
- F. Monthly Written Agency Updates Pursuant to Act 595 of 2021**
- G. Adjournment**