

DEPARTMENT OF HEALTH, STATE BOARD OF HEALTH

SUBJECT: Rules for Volunteer Health Care Immunity

DESCRIPTION:

These Rules provide for the registration of Free or Low-Cost Health Care Clinics, as defined in Ark. Code Ann. § 16-6-201, under the Arkansas Volunteer Immunity Act, to provide immunity from civil damages to physicians and licensed health care professionals who are rendering free and voluntary professional health care services; provide for the registration of healthcare providers and medical professionals, as defined in Ark. Code Ann. § 20-8-803, under the Volunteer Health Care Act, who are providing Volunteer Healthcare Services to low-income patients to provide immunity from civil damages to medical professionals who contract with the Department of Health; and, provide for the registration of retired physicians and surgeons who are licensed to practice medicine by the Arkansas State Medical Board under the laws of the State of Arkansas and who are providing Volunteer Healthcare Services to provide immunity from civil damages, under Ark. Code Ann. § 17-95-106.

The proposed rule:

- Removes outdated terms and organizes the rules for registration in an administratively more efficient manner; and
- Incorporates registrations in compliance with Act 958 of 2017, as amended by Act 968 of 2021, and with Ark. Code Ann. § 17-95-106.

The following changes are proposed:

Section 101 Purpose: Revised language to properly refer to intent for Arkansas Volunteer Immunity Act, and add language to explain intent of Arkansas Volunteer Health Care Act, and the statutory provisions for volunteer retired physicians and surgeons.

Section 102 Definitions: Corrected grammatical errors (capitalization, punctuation, and typographical errors). Expanded definitions to incorporate Arkansas Volunteer Health Care Act and Ark. Code Ann. § 17-95-106.

Section 201 Registration for the Free or Low-Cost Health Care Clinic: Corrected grammatical errors (capitalization, punctuation, and typographical errors). Revised provisions for Arkansas Volunteer Immunity Act to clarify intent and application of the Act.

Section 202 Immunity Under Arkansas Volunteer Immunity Act For Healthcare Professionals: Corrected grammatical errors (capitalization, punctuation, typographical errors, and cross-reference errors). Moved provisions for application of qualified immunity under Arkansas Volunteer Immunity Act to clarify intent and application of the Act.

Section 203 Required Notice To Persons Receiving Health Care Services At Free Or Low-Cost Health Care Clinics: Corrected grammatical errors (capitalization, punctuation, typographical errors, and cross-reference errors). Moved provisions for required notices under Arkansas Volunteer Immunity Act to clarify intent and application of the Act.

Section 301 Registration Process For Healthcare Providers: Corrected grammatical errors (capitalization, punctuation, and typographical errors). Revised provisions for Arkansas Volunteer Health Care Act to clarify intent and application of the Act, provide for registration of providers.

Section 302 Licensing Individuals from a State that Does Not License Interpreters: Corrected grammatical errors (capitalization, punctuation, typographical errors, and cross-reference errors). Added provisions for Arkansas Volunteer Health Care Act to provide for registration of health care professionals.

Section 401 – 407 Applicability of the Volunteer Health Care Act: Corrected grammatical errors (capitalization, punctuation, typographical errors, and cross-reference errors). Added provisions for Arkansas Volunteer Health Care Act to provide for the applicability of the Volunteer Health Care Act, required contract provisions, reporting requirements, patient selection, and reporting to the Arkansas Department of Health.

Section 501 – 503 Registration For Volunteer Services By Retired Physicians And Surgeons: Corrected grammatical errors (capitalization, punctuation, typographical errors, and cross-reference errors). Added provisions for Arkansas law on immunity for volunteer retired physicians and surgeons to provide for the registration process, application of immunity, and reporting requirements.

Section 601 – 602 Miscellaneous Provisions: Corrected grammatical errors (capitalization, punctuation, and typographical errors). Added miscellaneous provisions for severability and repeal.

PUBLIC COMMENT: No public hearing was held on this proposed rule. The public comment period expired on October 4, 2022. The agency provided the following summary of the single public comment it received and its response to that comment:

Commenter's Name: Arkansas Academy of Physician Assistants

COMMENT: The Arkansas Academy of PAs (ARAPA), on behalf of over 150 PAs (physician assistants) throughout Arkansas, appreciates the opportunity to provide comments on the Arkansas Volunteer Immunity Act For Health Care Professionals and the Arkansas Volunteer Health Care Act and its amendments. We would like to draw your attention to updating Section 102(g)(2) from the title “physician’s assistant” to the official legal title of “physician assistant” as we are referred to by the Arkansas State Medical Board. **RESPONSE:** The proposed Rules Pertaining to the Arkansas Volunteer Immunity Act for Health Care Professionals and the Volunteer Health Care Act were drafted using language provided in Act 958 of 2017 and Act 968 of 2021, which utilized

“physician’s assistant.” After review of this comment and Ark. Code Ann § 17-105-101, the Arkansas Department of Health will update the references of “physician’s assistant” to “physician assistant.”

The proposed effective date is January 1, 2023.

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

LEGAL AUTHORIZATION: The Department of Health has authority to make rules necessary for the implementation of the Volunteer Health Care Act. Ark. Code Ann. § 20-8-809. The State Board of Health has authority to adopt rules regarding the registration of free or low-cost medical clinics under Ark. Code Ann. §§ 16-6-201 and 17-95-106.

These rules implement Act 968 of 2021. The Act, sponsored by Representative Aaron Pilkington, updated the Volunteer Health Care Act and included therapists, addiction specialists, and counselors in the Volunteer Healthcare Program.