

**REPORT OF THE
ADMINISTRATIVE RULES AND REGULATIONS COMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

August 21, 2009

Mr. Co-Chairmen:

The Committee on Administrative Rules and Regulations met at 9:00 a.m. on Thursday, July 7, 2009, in Room 151 of the State Capitol. The following committee members attended: Senator Co-Chair Percy Malone and Representative Vice Co-Chair George Overbey, Jr.; Senators Terry Smith, Kim Hendren, Paul Bookout, Cecile Bledsoe and Steve Faris; Representatives Monty Davenport, Bill Sample, Ray Kidd, John Paul Wells, David Dunn and Johnnie J. Roebuck. Other legislators attended as follows: Senators Bill Pritchard, David Wyatt, Larry Teague and Gene Jeffress; Representatives James McLean, Randy Stewart, John Burris, Mark Martin, Andrea Lea, Roy Ragland, Richard Carroll, J. R. Rogers, Garry L. Smith, Billy Gaskill, Uvalde Lindsey, Tommy Baker, Mike Patterson, Curren Everett, Buddy Lovell, Tracy Pennartz, David R. Cook, Charolette Wagner, Jon Woods, Rick Green, Frank Glidewell and Steve Cole.

1. The Committee completed its review of the following rules filed pursuant to A.C.A. § 10-3-309:

STATE BOARD OF DENTAL EXAMINERS (Bill Trice)

- a. Article XIII; Sedation and Anesthesia
- b. Additions to Dental Assistant Functions Article XVII

DEPARTMENT OF ECONOMIC DEVELOPMENT (Michael Almond)

- a. Tourism Development Incentive
- b. Non-Profit Incentive Act
- c. Motion Picture Incentive Act.
- d. Consolidated Incentive Act of 2003

DEPARTMENT OF FINANCE AND ADMINISTRATION, REVENUE DIVISION (John Theis)

- a. Rule 2009-1: Standard Mileage Rate for Income Tax Purposes

ARKANSAS FIRE AND POLICE PENSION REVIEW BOARD (David Clark)

- a. Rule 5; Benefit Levels

DEPARTMENT OF HEALTH, IMMUNIZATION SECTION (Dr. Sandra Snow, Robert Brech)

- a. Immunization Requirements

DEPARTMENT OF HUMAN SERVICES, COUNTY OPERATIONS (Thomas Green, Mae Bishop)

- a. Weatherization Assistance Program 2009-2012 State Plan

DEPARTMENT OF HUMAN SERVICES, FINANCE AND ADMINISTRATION (Rex Jones)

- a. Social Services Block Grant Comprehensive Services Program Plan

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES (Jeff Wood)

- a. EPSDT Update #120 and Section V Update; Section 19 of the DMS-694; EPSDT Claim Form
- b. Arkansas Medicaid State Plan Amendment #2009-005 and Dental Update #121
- c. Arkansas State Plan Amendment #2009-006; Inpatient Hospital Rate Adjustment to Non-State Government-Owned or Operated Acute Care and Critical Access Hospitals
- d. Independent Choices Update #11
- e. Occupational, Physical and Speech Therapy Services Provider Manual Update #113; Developmental Day Treatment Clinic Services Provider Manual Update #124; Physician/Independent Lab/CRNA/Radiation Therapy Center Provider Manual Update #170, Nurse Practitioner Provider Manual Update #115; Hospital/Critical Access Hospital (CHA)/End Stage Renal Disease (ESRD) Provider Manual Update #157; Child Health Management Services Provider Services Provider Manual Update #121; Rehabilitative Hospital Provider Manual Update #113

OIL AND GAS COMMISSION (Lawrence Bengal, Maurice Rigsby)

- a. Rule A-3; Additional Requirements for Specific Types of Hearings
- b. Rule A-5; Enforcement Procedures
- c. Rule C-7; Disposal of Salt Water
- d. Rule H-1; Class II Disposal and Class II Commercial Disposal Well Permit Application Procedures
- e. Rule H-2; Well Construction, Operating and Reporting Requirements for Class II Disposal Wells
- f. Rule H-3; Well Construction, Operating and Reporting Requirements for Class II Commercial Disposal Wells

STATE BOARD OF PHARMACY (John Kirtley)

- a. Regulation 2; Pharmacists
- b. Regulation 5; Long Term Care Facilities
- c. Regulation 7; Drug Products/Prescriptions
- d. Regulation 10; Arkansas Pharmacy Support Group
- e. Regulation 11; Criminal Background Checks

STATE PLANT BOARD (Terry Walker)

- a. Arkansas Pest Control Regulations (Circular 6)

WATER WELL CONSTRUCTION COMMISSION (Crystal Phelps, D. Todd Fugitt)

- a. 2009 AWWCC Proposed Rule Revisions
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2. **Upon the agency's request, the Department of Human Services, Medical Services Section V (8-1-09) and DMS 840 Form was not considered at this meeting, and it will be placed on a later agenda.**
 3. **The committee heard a review of the procedures of the Department of Workforce Services, Board of Review concerning the appeal of an unemployment compensation determination. Nicole Williams, Chairman of the Board of Review and Sommer Falkenberry presented these procedures. The discussion centered around whether names should be included in the record and whether allegations of harassment should be included in the record without input from the employer. Ms. Williams indicated that the board would try to be more generic in writing decisions. The agency should work toward improving the system to assure that all parties are included in**

the conference call, and legislation may be needed to protect the public in appeals of unemployment compensation determinations.

Respectfully submitted,

Senator Percy Malone

Senator Percy Malone, Co-Chair

Representative Mike Burris

Representative Mike Burris, Co-Chair

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August 21, 2009

Mr. Co-Chairmen:

The Committee on Administrative Rules and Regulations met at 9:00 a.m. on Tuesday, August 11, 2009, in Room 151 of the State Capitol. The following committee members attended: Senator Co-Chair Percy Malone and House Co-Chair Mike Burris; Senators Terry Smith, Kim Hendren, Paul Bookout, Cecile Bledsoe, Henry "Hank" Wilkins IV, and Steve Faris; Representatives George Overbey, Jr., Ray Kidd, David Dunn, Allen Maxwell and Nathan George. Other legislators attended as follows: Senators Larry R. Teague, David Wyatt, Johnny Key, Jim Luker, Ed Wilkinson, Bill Pritchard and Gene Jeffress; Representatives Curren Everett, Uvalde Lindsey, Mark Martin, Jody Dickinson, Clark Hall, Andrea Lea, Johnny Hoyt, James McLean, Bill Abernathy, Buddy Lovell, Randy Stewart, Rick Green, Billy Gaskill, Robert Moore, Richard Carroll, Garry L. Smith and Duncan Baird.

1. The Committee completed its review of the following rules filed pursuant to A.C.A. § 10-3-309:

ARKANSAS ALTERNATIVE DISPUTE RESOLUTION COMMISSION
(Jennifer Jones Taylor, Ed Nelson)

- a. Minimum Standards for Mediation Training

DEPARTMENT OF HUMAN SERVICES, DEVELOPMENTAL
DISABILITIES SERVICES (Shelley Lee, Charlie Green)

- a. DDS Policy #1089; Criteria for Expansion of DDS Services Policy

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES (Jeff Wood)

- a. Hearing Services Provider Manual Update #84
- b. Transportation Update #123

LIVESTOCK AND POULTRY COMMISSION (Jon Fitch, Dr. Pat Badley)

- a. Trichomoniasis Regulation for Cattle

NATURAL RESOURCES COMMISSION (Randy Young, Crystal Phelps, Ken Braswell)

- a. Utilization of Surface Water, Title III

OIL AND GAS COMMISSION (Maurice Rigsby)

- a. General Rule D-8; Monthly Natural Gas Production Reports
- b. General Rule D-16; Back Pressure Tests for Natural Gas Production Allowable Determination

ARKANSAS STATE POLICE, STATE FIRE MARSHAL (Lt. Lindsey Williams, Jean Langford)

- a. Fire Sprinklers for New One and Two Family Dwellings (see note below)

ARKANSAS DEPARTMENT OF RURAL SERVICES (Butch Calhoun)

- a. Amendments to Regulations for the GIF-1 Community Enhancement Grant; GIF-2 Fire Protection Grant; GIF-3, County Fair Grant

ARKANSAS SENTENCING COMMISSION (Wanda Hayes, Erin West)

- a. Arkansas Sentencing Standards Seriousness Reference Table

2. **Upon the agency's request, the following rules were not considered, but they will be reconsidered at a later meeting of the committee:**

DEPARTMENT OF HUMAN SERVICES, DEVELOPMENTAL DISABILITIES SERVICES

- a. DDS Policy #1086; Human Development Center Admission and Discharge Rules

ARKANSAS WORKFORCE INVESTMENT BOARD

- a. Workforce Investment Act/Wagner-Peyser Act State Plan Modification and the State Workforce Investment Act Waiver Plan

3. **The committee recommended that the Arkansas Alternative Dispute Resolution Commission appear again at the September meeting of the committee to review the rules after the commission inserts the amount of fees to be charged in two rules. The two rules are the Continuing Mediation Education Requirements for Certified Mediators which involves a**

recertification fee and any delinquent filing fee; and the Requirements for the Certification of Mediators for Arkansas Circuit Courts which involves an application fee. The issue is that the amount of the fines are not expressly provided for in the rule.

- 4. The committee reviewed the Arkansas State Police, State Fire Marshal's rule that clarifies that fire sprinklers in new one and two family dwellings will not be a state mandated requirement in the next edition of the Arkansas Fire Prevention Code (estimated 2012 Edition). Lt. Lindsey Williams indicated that the following paragraph will be removed from the final filing of the rules:**

"(B) Cities and Counties and other political subdivisions of this state may address and adopt at their own option local ordinances for the use and installation of automatic fire sprinkler systems in new one and two family dwellings."

Respectfully submitted,

Senator Percy Malone

Senator Percy Malone, Senate Co-Chair

Representative Mike Burris

Representative Mike Burris, House Co-Chair