

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

March 19, 2010

Mr. Co-Chairmen:

The Subcommittee on Administrative Rules and Regulations met at 9:00 a.m. on Thursday, February 4, 2010, in Room 151 of the State Capitol. The following committee members attended: Senator Percy Malone, Co-Chair and Representative Mike Burris Co-Chair; Senator John Paul Capps, Vice Co-Chair and Representative George Overbey, Jr., Vice Co-Chair; Senators Terry Smith, Kim Hendren, Randy Lavery, Paul Bookout, and Cecile Bledsoe; Representatives Monty Davenport, Bill Sample, Ray Kidd, David Dunn, Johnnie Roebuck, and Allen Maxwell. Other legislators attended as follows: Senators Jimmy Jeffress, Denny Altes, Larry Teague, Bill Pritchard, and David Wyatt; Representatives Curren Everett, Billy Gaskill, Robert Moore, Uvalde Lindsey, Buddy Lovell, John Burris, Duncan Baird, Randy Stewart, Tracy Pennartz, Mike Patterson, Frank Glidewell, Bill Abernathy, Mark Martin, Jane English, Eddie Cooper, Johnny Hoyt, and Clark Hall.

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

STATE ATHLETIC COMMISSION (Johnny Mattingly, Jason Stuart)

- a. Combative Sports Regulations

**ARKANSAS AGRICULTURE DEPARTMENT, STATE PLANT BOARD
(Terry Walker)**

- a. Boll Weevil Eradication Program
- b. Rice Certification Regulations

**DEPARTMENT OF ENVIRONMENTAL QUALITY, HAZARDOUS
WASTE DIVISION (Teresa Marks, Ryan Benefield, Clyde Rhodes)**

- a. Regulation No. 30; 2009 Annual Update

**DEPARTMENT OF HEALTH, CENTER FOR PUBLIC HEALTH
PRACTICE (Lynda Lehing)**

- a. Hospital Discharge Data Submittal Guide

**DEPARTMENT OF HUMAN SERVICES, SERVICES FOR THE BLIND
(Kandy Cayce)**

- a. 2010 Vocational Rehabilitation State Plan

**DEPARTMENT OF HUMAN SERVICES, CHILDREN AND FAMILY
SERVICES (Christin Harper, Jeff Wood)**

- a. Revised Rules and Forms

**DEPARTMENT OF HUMAN SERVICES, FINANCE AND
ADMINISTRATION (Jeff Wood)**

- a. DHS Policy 5007; Security Incident Reporting and Response Policy
- b. DHS Policy #1078; Americans with Disabilities Act and Attachment A

**DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES (Jeff
Wood)**

- a. Pharmacy Provider Manual Update #143
- b. Developmental Day Treatment Clinic Services (DDTCS) Provider Manual Update #115
- c. Prosthetics Update #70
- d. DDS Alternative Community Services Waiver Provider Manual Update #120
- e. State Plan Amendment #2009-010; Inpatient Hospital
- f. State Plan Amendment #2009-011; Outpatient Hospital

STATE BOARD OF NURSING (Faith Fields, Sue Tedford)

- a. Chapter 4, Advanced Practice Nursing; Chapter 6, Standards for Nursing Education Programs

2. **The Committee considered the Department of Agriculture, State Plant Board's rule concerning licensing of mold investigators. Mr. Terry Walker of the Plant Board indicated that the rule only deals with licensing the mold investigators, and the department will not have any enforcement responsibilities. However, the committee discussed the problem of pest control inspectors being held responsible for not informing customers when mold is discovered. Mr. Walker advised the committee that an attorney general representative had opined that anyone who tells a person that they**

have mold must have a mold investigator license. Senator Malone will request an expedited Attorney General's opinion, and the rule will be reconsidered at the next meeting.

- 3. Dr. Gayle Potter and Jeremy Lassiter presented the Department of Education's rule concerning the College Preparatory Enrichment Program (CPEP). One change in Section 4.03 allows rising eleventh-grade students to enroll in the program if space is available. The committee questioned whether this complied with Act 1469 of 2009. Dr. Potter agreed to change the language so that it applies to the twelfth grade and graduates to comply with this legislation. The committee reviewed the rule with this change.**
- 4. The Department of Higher Education withdrew the Arkansas Academic Challenge Scholarship Program rule.**
- 5. Upon the agency's request, the Commission for Public School Academic Facilities and Transportation's rules that were scheduled on the agenda were not considered. They will be scheduled on a later agenda.**

Respectfully submitted,

Senator Percy Malone

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Representative Mike Burris

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Mr. Co-Chairmen:

The Subcommittee on Administrative Rules and Regulations met at 9:00 a.m. on Wednesday, March 10, 2010, in Room 151 of the State Capitol. The following committee members attended: Senator Percy Malone, Co-Chair and Representative Mike Burris Co-Chair; Senator John Paul Capps, Vice Co-Chair and Representative George Overbey, Jr., Vice Co-Chair; Senators Steve Faris, Kim Hendren, and Randy Laverty; Representatives Bill Sample, Ray Kidd, David Dunn, and Johnnie Roebuck. Other legislators attended as follows: Senators David Wyatt and Barbara Horn; Representatives Curren Everett, R. Gregg Reep, Buddy Lowell, Eddie Cooper, Jerry Brown, Mike Patterson, and Jane English.

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 Requirements
- b. Article VIII, § B.6; Requirements for Licensure of Dental Hygienists

ARKANSAS DEVELOPMENT FINANCE AUTHORITY (Sara Braswell, Layne Anderson)

- a. 2010 Community Development Block Grant Disaster Program Policies and Procedures Manual

DEPARTMENT OF HIGHER EDUCATION (Tara Smith)

- a. Teacher Opportunity Program

DEPARTMENT OF HUMAN SERVICES, COUNTY OPERATIONS (Linda Greer, Randy Helms)

- a. Medical Services Policy 23010 and 23110; Resource Limit for Medicare Savings Medicaid Program

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES (Jeff Wood)

- a. State Plan Amendment #2010-002; Medicare Savings Program

INSURANCE DEPARTMENT (Bob Alexander)

- a. Rule 24; Surplus Line Insurance
- b. Rule 87; Title Insurance
- c. Rule 21; Coordination of Benefits, Accident and Health Insurance Policies

LAW ENFORCEMENT STANDARDS AND TRAINING COMMISSION (Terry Bolton, Commissioner Nicholson) and Bob Harrison)

- a. Regulation 1005; Minimum Standards for Training

OIL AND GAS COMMISSION (Lawrence Bengal, Shane Khourey)

- a. Rule B-43; Establishment of Drilling Units for Gas Production from Conventional and Unconventional Sources of Supply Occurring in Certain Prospective Areas not Covered by Field Rules
- b. Rule B-9; Dry Gas Well Plugging Methods and Procedures

STATE MEDICAL BOARD (Bill Trice)

- a. Regulation 32; Ethical Violation

- 2. **The Arkansas Agriculture Department, State Plant Board's Arkansas Mold Investigator Law rule was deferred until the next meeting to obtain the Attorney General's opinion concerning whether a pest control operator who reports a finding of mold must be licensed under this rule.**
- 3. **The Department of Higher Education's State Teacher Education Program rule concerning the STEP program was deferred until the next meeting. The STEP program will assist with repayment of federal student loans for up to three years for eligible teachers that teach in a geographic or subject shortage area or who are members of a racial minority. Ark. Code Ann. § 6-81-1606 cites the repayment amount of "\$3,000 per year for a maximum of three years for a licensed teacher who graduated from a teacher education program after April 2004 and teaches in a public school in this state in a subject area designated by the Department of Higher Education in consultation with the Department of Education as having a critical shortage of teachers; or located in the geographical area of the state designated by the Department of Higher Education in consultation with the Department of Education as having a critical shortage of teachers." The department**

interpreted the Act to mean that the repayment amount could be \$6,000 per year for both critical shortage and geographic area; however, the act addressed the repayment as \$3,000 for critical shortage or geographic area. The agency agreed to make this change and return to the committee in April.

4. The committee considered the Department of Human Services, Child Care/Early Childhood Education's "Better Beginnings" rule. Alisa Carter with the Arkansas Child Care Providers Association testified that her association is not opposed to the rule, but rather, some providers are concerned about what the changes will cost. She requested that the department do an analysis on the impact to child care providers. While this issue was not raised during the public comment period, Tonya Russell, department director, agreed to meet with the association. There was also discussion about adding language to assure that if federal funding decreases, the providers would not be strapped with an unfunded mandate. The rule will be deferred until the April meeting.
5. The State Medical Board's Regulation 31 Physician Delegation Regulation was deferred until the next committee meeting to allow additional time for the physicians and nurses to meet jointly concerning their differences on this rule.
6. The committee heard a brief report from Charlie Green, the Director of the Department of Human Services, Developmental Disabilities Services concerning the injunction that the Department of Justice has filed against the Conway Human Development Center to prevent admitting more people. There appears to be a disagreement on what seems to be the "least restrictive environment." Some members expressed support for the department, and they expressed that the department has complied with the Olmstead "least restrictive environment" decision.

Respectfully submitted,

Senator Percy Malone

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