



Arkansas Department of Health

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Governor Sarah Huckabee Sanders

Renee Mallory, RN, BSN, Secretary of Health

Jennifer Dillaha, MD, Director

January 31, 2024

Senator Kim Hammer, Co-Chair
Representative Brian Evans, Co-Chair
Administrative Rules Subcommittee
Arkansas Legislative Council
Via Rebecca Miller-Rice Email miller-ricer@blr.arkansas.gov

Dear Co-Chairs,

First, pursuant to Ark. Code Ann. § 25-15-216(b)(4), please consider the following Arkansas Department of Health (ADH) Division of Health-Related Boards and Commissions update on rulemaking resulting from Acts of 2023. Arkansas law requires that each rule be promulgated by the specific Board or Commission, which meets at various times of the year. Various regulatory boards under the ADH Division of Health-Related Boards and Commissions are now drafting and amending rules specifically required due to legislation from the 2023 session. Please find a summary of the Boards' efforts made thus far below.

Arkansas State Board of Nursing

Act 672 of 2023 establishes nursing earn-to-learn programs and authorizes a nursing student to earn direct patient care clinical credit hours for working in a healthcare facility in certain jobs. The nursing program and the healthcare facility shall establish boundaries and expectations of the senior-level nursing student based on accreditation standards and rules of the Arkansas State Board Nursing. The Arkansas State Board of Nursing (ASBN) drafted rule changes to comply with the Act. The ASBN will be seeking public comment on the proposed changes and continue the promulgation process.

The Arkansas Department of Health Division of Health-Related Boards and Commissions will continue to provide updates on rulemaking. If there are changes or additional updates identified, the ADH will provide further information in these updates as submitted to the Administrative Rules Subcommittee. Please let us know if you have questions or need additional information.

Second, pursuant to Ark. Code Ann. § 25-15-216 (b)(4), please also consider the following Arkansas Department of Health (ADH) and State Board of Health update on rulemaking resulting from Acts of 2023. The State Board of Health meets quarterly each year and ADH has drafted proposed amendments to rules and proposed repeal of rules to implement new laws. As evidenced below, ADH and the Board will continue the rule promulgation process outlined in the Administrative Procedure Act, including the public notice and comment period, followed by the Legislative review and approval process under Ark. Code Ann. § 10-3-309, prior to filing the final rules.

Newborn Infant Testing

Act 490 of 2023 provided for amendments to the core medical conditions for which screening is required. After the Department presented this rule to the Public Health Committee and ALC-Rules Subcommittee in January for review and approval, the final rule was filed January 31, 2024.

Abortion Facilities Rule Repeal

Act 162 of 2023 removed licensure from abortion facilities. After the Department presented this rule repeal to the Public Health Committee and ALC-Rules Subcommittee in January for review and approval, the final rule repeal was filed January 31, 2024.

Orthotic, Prosthetic and Pedorthic Providers, Perfusionists, and Radiologic Technology Licensure

Act 137 of 2023 required modification to certain occupational rules, specifically amendments to the rules addressing the automatic licensure requirements for uniformed service members. After the Department presented the rules to the Public Health Committee and ALC-Rules Subcommittee in January for review and approval, the final rules were filed January 31, 2024.

Controlled Substances List

Act 629 of 2023 amended Ark. Code Ann. § 5-64-215, Substances in Schedule VI, which are also listed in the Controlled Substances List. To the extent that the proposed changes to the list contain references to implement Act 629 of 2023, the enforcement of the Act is enjoined by a federal court as of September 7, 2023. On October 26, 2023, the Board of Health approved the remaining list of substances moving forward with the promulgation process to file the final rule with a notation that the portion of the list referencing specific changes resulting from Act 629 of 2023 was enjoined from enforcement. The final rule was filed on November 1, effective November 11, 2023.

Sanitarians, Septic Tank Cleaners, and Water Operator Licensing

Act 137 of 2023 required modification to certain occupational rules, specifically amendments to the rules addressing the automatic licensure requirements for uniformed service members. Act 457 of 2023 provided for automatic licensure for out-of-state licensees. The Board of Health approved these rules on October 26, 2023. After the public comment periods are complete, the Department will present the rules to the Public Health Committee and ALC-Rules subcommittee for review and approval.

In closing, the Arkansas Department of Health, the Division of Health-Related Boards and Commissions, and the State Board of Health will continue to provide updates on rulemaking. If there are changes or additional updates identified, the ADH will provide further information in these updates as submitted to the Administrative Rules Subcommittee. Please let us know if you have questions or need additional information.

Sincerely,



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