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February 23, 2022

VIA EMAIL

Booth Rand, Esq.
Managing Attorney
Arkansas Insurance Department
1 Commerce Way, Suite 102
Little Rock, AR 72202
Booth.rand@arkansas.gov

Re: Proposed Amended Rule 111: Craniofacial Anomaly Reconstructive Surgery
Coverage

Dear Mr. Rand:

These comments on proposed amended Rule 111 are submitted on behalf of Dean McNeel DDS and Ozark Prosthodontics in response to the Amended Notice of Public Hearing issued January 31, 2022, and in anticipation of the public hearing scheduled for February 24, 2022. Please submit them as part of the record at the hearing.

The stated purpose of Act 955 of 2021 is to “serve residents in this state who are in need of healthcare services to treat individuals with craniofacial anomalies.” [Act 955, Emergency Clause.] The statute requires Health Benefit Plans to include coverage and benefits for reconstructive surgery and related medical care for a person diagnosed as having a craniofacial anomaly if the care is medically necessary to improve a functional impairment “as determined by a nationally approved cleft-craniofacial team, approved by the American Cleft-Palate-Craniofacial Association in Chapel Hill, North Carolina.” Arkansas Children’s Hospital (ACH) has the only ACPA approved team in Arkansas, and that, unfortunately, has created a bottleneck that restricts access to critical services for patients with a craniofacial anomaly.¹ However, the bottleneck at ACH cannot be remedied through Rule 111.

Nevertheless, the Department can further the goal of the statute through its promulgation of Rule 111, and the proposed Rule 111 published on January 31, 2022, does so. My clients

¹ Recently, ACH has begun notifying long-term patients who have “aged out” that they can no longer receive services at ACH, but ACH has not provided those patients authorizations that meet the requirements of Act 955. This has exacerbated the bottleneck.

Booth Rand, Esq.
February 23, 2022
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commend the Department for its diligence and efforts in drafting a Rule that is consistent with the statute and seeks to further the goals identified by the legislature.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'GE Fortson', with a stylized flourish at the end.

Grant E. Fortson

GEF

Booth Rand

From: Wendelyn Osborne <wendelynosborne@gmail.com>
Sent: Thursday, March 3, 2022 8:57 PM
To: Booth Rand; Johnson, Lacey A.; kim.hammer@senate.ar.gov
Subject: Fwd: Fw: Proposed Amended Rule 111: Public Comments/ Transcript

Booth,

Please submit below email as my second letter of opposition to Alan's edits to Rule 111, which I originally sent to Clara Mezzanine February 18, 2022, for a total of two letters of opposition for public record.

Wendelyn Y Osborne

----- Forwarded message -----

From: **Wendelyn Osborne** <wendelynosborne@gmail.com>
Date: Fri, Feb 18, 2022 at 6:03 PM
Subject: Re: Fw: Proposed Amended Rule 111: Public Comments/ Transcript
To: Clara Mezza <Clara.Mezza@arkansas.gov>
CC: Alan McClain <alan.mcclain@arkansas.gov>, Booth Rand <booth.rand@arkansas.gov>, Brandy Wedsted <Brandy.Wedsted@arkansas.gov>, Clara Mezza <Clara.Mezza@arkansas.gov>, Crystal Phelps <Crystal.Phelps@arkansas.gov>, Irvin, Missy <Missy.Irvin@senate.ar.gov>, Jim Brader <jim.brader@arkansas.gov>, <kim.hammer@senate.ar.gov>, <missythomasirvin@gmail.com>

Clara,

Thank you for making me aware of this February 24, 2022 2nd Public Hearing on Rule 111 at 1:30pm.

Please note, I sent an email to Alan, Jim, Booth and Crystal on January 27, 2022, at 2:26pm, stating that I am opposing Alan's edits to Rule 111. I meant what I said in that email.

Not only did Alan change the wording in Rule 111 after the December 10, 2021 public hearing, violating the rules set forth by the Bureau of Legislative Research, but Alan made edits to Rule 111, which he gave his word at the end of the October meeting, where we specifically with over Rule 111 with him, "we" being Jim Brader, Booth Rand, Crystal Phelps and myself, after I looked him directly in the eyes and asked, "Alan, will you sign this rule as is?" Alan's response, looking directly at me, "Yes".

Alan, you told me more than once last fall that we need to give the opposition some of what they want, because the Committee doesn't like rules with opposition. If there was opposition, then the Committee would vote down the rule and we would be back to square one, re-writing the rule.

Guess what, Alan, I, Wendelyn Yvonne Osborne, the one responsible for this law, the one who started working on this law in February of 2000 (22 years) and the one who the law is named for, Wendelyn's Craniofacial Law, am opposing the edits you made to Rule 111.

I forwarded the email I sent Alan, Jim, Booth and Crystal, January 27, 2022 at 2:26pm, on to the Bureau of Legislative Research yesterday (Thursday, February 17, 2022), which they will include in the Public Comments for the 2nd public Hearing.

I WILL have Rule 111 pulled. I WILL be actively involved in the re-writing of Rule 111.

Wendelyn Y Osborne, Craniofacial Advocate
870-245-9359

On Fri, Feb 18, 2022 at 5:06 PM Clara Mezza <Clara.Mezza@arkansas.gov> wrote:

Ms. Osborne,

The Arkansas Insurance Department is having a second Hearing on February 24, 2022, at 1:30PM at the Department of Commerce Central High/Old Mill Hearing Room on Rule 111: Craniofacial Anomaly Reconstructive Surgery Coverage. Please see attached Notice of Rulemaking and Public Hearing for further details.

The Letter of Support that you submitted with the first hearing was not included in the transcript, we are including all comments from the first hearing in the second hearing. You may take the opportunity to submit another Letter of Support and any other comment during this second hearing. Please submit any comments to me via clara.mezza@arkansas.gov and copy Brandy Wedsted via brandy.wedsted@arkansas.gov.

Thank you,

Clara D. Mezza
Insurance Administrative Coordinator
Legal Division
Arkansas Insurance Department
501-683-3497

From: Wendelyn Osborne <wendelynosborne@gmail.com>
Sent: Thursday, February 17, 2022 12:35 PM
To: Clara Mezza <Clara.Mezza@arkansas.gov>
Cc: Irvin, Missy <Missy.Irvin@senate.ar.gov>; johnsonla@blr.arkansas.gov; kim.hammer@senate.ar.gov
Subject: Re: Proposed Amended Rule 111: Public Comments/ Transcript

Clara, thank you for explaining to me how to find the Dec 10, 2021 AID Hearing transcript.

A couple of things I want to point out:

1. My Letter of Support is not included in this transcript.
2. The Arkansas Supreme Court Reporter did not accurately dictate all my comments. One of these is the name of my Craniofacial diagnosis. My diagnosis is

Craniometaphyseal Dysplasia

I would NEVER say/state my diagnosis as craniodiaphyseal dysplasia.

Wendelyn Y Osborne, Craniofacial Advocate
870-245-9359

On Thu, Feb 17, 2022 at 8:50 AM Clara Mezza <Clara.Mezza@arkansas.gov> wrote:

The link is <https://insurance.arkansas.gov/pages/industry-regulation/legal/proposed-rules/>, if the link does not work go to the Legal tab on Arkansas Insurance Department website and look for Proposed Rules. Then Rule 111, the

Transcript will be labeled "Transcript for Hearing on December 10, 2021" it may take a minute to download, as it is a large document.

Thank you,

Clara D. Mezza
Insurance Administrative Coordinator
Legal Division
Arkansas Insurance Department
501-683-3497

From: Wendelyn Osborne <wendelynosborne@gmail.com>
Sent: Thursday, February 17, 2022 8:43 AM
To: Clara Mezza <Clara.Mezza@arkansas.gov>
Subject: Re: Proposed Amended Rule 111: Public Comments/ Transcript

Clara,

Thank you for sending me this link. But, how do I get to the transcript of the December 10, 2021 AID hearing?

On Thu, Feb 17, 2022 at 8:25 AM Clara Mezza <Clara.Mezza@arkansas.gov> wrote:

Ms. Osborne,

I am including the link to find the full transcript for the Hearing that was held on December 10, 2021, (the transcript is too large to send through email).

<https://insurance.arkansas.gov/pages/industry-regulation/legal/proposed-rules/>

Thank you,

Clara D. Mezza
Insurance Administrative Coordinator
Legal Division
Arkansas Insurance Department
501-683-3497

From: Wendelyn Osborne <wendelynosborne@gmail.com>
Sent: Tuesday, February 15, 2022 9:23 PM
To: Clara Mezza <Clara.Mezza@arkansas.gov>
Cc: Brandy Wedsted <Brandy.Wedsted@arkansas.gov>
Subject: Re: Proposed Amended Rule 111: Public Comments

Thank you Clara, for sending all the public comments that were submitted in regards to Rule 111.

Wendelyn Osborne, Craniofacial Advocate
870-245-9359

On Tue, Feb 15, 2022 at 10:03 AM Clara Mezza <Clara.Mezza@arkansas.gov> wrote:

Ms. Osborne,

The attached document is the public comments received concerning Proposed Amended Rule 111 hearing on December 10, 2021.

Thank you,

Clara D. Mezza
Insurance Administrative Coordinator
Legal Division
Arkansas Insurance Department
501-683-3497

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Booth Rand

From: Wendelyn Osborne <wendelynosborne@gmail.com>
Sent: Thursday, January 27, 2022 2:27 PM
To: Booth Rand
Cc: Alan McClain; Jim Brader
Subject: Re: Finals Rule 111

Alan, Jim and Booth,

I am writing to inform you that I am opposing Alan's edits to Rule 111.

Although I've requested twice now for a copy of the public comment BLR sent you on December 6, 2021, you have failed to send this document to me.

As per BLR and Senator Hammer, an agency is not to change anything in the rule from the time and date the agency hearing was held. Technical changes such as grammatical errors can be made but that's it.

Alan, you met with Jim Brader, Booth Rand, Crystal Phelps and myself on October 15, 2021. Just before the conclusion of that meeting, I looked you in the eye and asked you, "Alan, will you sign this rule?" You replied, "Yes".

This rule as is will not be adopted. I repeat, I WILL NOT let this rule be adopted!

Wendelyn Y Osborne, Craniofacial Advocate
870-245-9359

PS

We, I included, still need to conduct the meetings with each of the top four insurance companies, including the girl from Nashville, TN who is with United Healthcare, to go over what is expected of them in regards to Wendelyn's Craniofacial Law. We also need to set up a meeting with the top officials at UAMS and ACH and Dr Sagar Mehta, to go over what the Craniofacial team at ACH needs to do to bring their team in compliance with Act 955 of 2021.

On Fri, Jan 21, 2022 at 4:03 PM Booth Rand <booth.rand@arkansas.gov> wrote:

Wendelyn please find attached the Commissioners edits in response to public comments. I have enclosed a markup version and a clean version

Sincerely,

Booth Rand
Managing Attorney
One Commerce Way, Suite 102
Little Rock, AR 72202
O: 501-371-2827
M: 501-414-1400
booth.rand@arkansas.gov

Please be advised that my emails or responses are not intended to be binding Orders, Rules, Bulletins or Directives of the Arkansas Insurance Commissioner. This is an informal communication or reply which represents my best judgment at the time and does not constitute an advisory opinion, does not necessarily represent the formal position of AID, and does not bind or otherwise obligate or commit the agency to the views expressed.

From: Booth Rand <booth.rand@arkansas.gov>
Sent: Friday, January 21, 2022 1:26:25 PM
To: Booth Rand <booth.rand@arkansas.gov>
Subject: Finals Rule 111

Sincerely,

Booth Rand

Managing Attorney

One Commerce Way, Suite 102

Little Rock, AR 72202

(501) 371-2827

booth.rand@arkansas.gov

Please be advised that my emails or responses are not intended to be binding Orders, Rules, Bulletins or Directives of the Arkansas Insurance Commissioner. This is an informal communication or reply which represents my best judgment at the time and does not constitute an advisory opinion, does not necessarily represent the formal position of AID, and does not bind or otherwise obligate or commit the agency to the views expressed.

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