

DEPARTMENT OF HEALTH, STATE BOARD OF HEALTH

SUBJECT: REPEAL of Rules and Regulations for Retired Physician Immunity Act

DESCRIPTION: This rule is being repealed after it was incorporated into the Rules Pertaining to the Arkansas Volunteer Immunity Act for Health Care Professionals and the Arkansas Volunteer Health Care Act.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on October 15, 2024. The agency indicated that it received no comments.

The proposed effective date is January 1, 2025.

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 may promulgate rules necessary to provide for the registration of free or low-cost healthcare clinics under Arkansas Code § 16-6-201, regarding volunteer immunity, healthcare professionals, and indigent care. Ark. Code Ann. § 16-6-201(c)(1).

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

NOTICE OF PUBLIC COMMENT PERIOD

The Arkansas Department of Health (ADH) is accepting public comments on the proposed REPEAL OF Rules and Regulations for Retired Physician Immunity Act from September 15, 2024 to October 15, 2024 at 4:00 pm. The comment period is provided to allow interested parties and the public to provide any comments. The proposed rule revision with a summary of changes can be viewed online at <https://healthy.arkansas.gov/resources/rules/proposed-repeal-of-rules/> or you may request a copy from our office at 501-683-6626.

Comments on the proposed changes can also be mailed to Arkansas Department of Health, Comments/Slot31, 4815 West Markham, Little Rock Arkansas, 72205, or emailed to Stephan.Smith@arkansas.gov. All written public comments must be received by 4:00 pm on October 15, 2024.

~~RULES AND REGULATIONS RETIRED PHYSICIAN IMMUNITY ACT / ACT 844 OF 1995~~

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~~PURPOSE~~

~~The purpose of these rules or regulation is to provide for the registration of Free or Low Cost Medical Clinics; and to provide immunity from civil damages to retired physicians and surgeons who are rendering free and voluntary medical services. The Arkansas State Board of Health is responsible for the registration of free or low cost medical clinics pursuant to Act 844 of 1995.~~

~~DEFINITIONS~~

- ~~1. Free or low cost medical clinic (FOLCMC) means a clinic or part of a clinic that provides free or low cost medical care and which accepts no insurance payments for providing medical services and that has been registered with the Arkansas Department of Health as fulfilling these requirements~~
- ~~2. Retired physician and/or surgeon (RPS) means any medical doctor no longer actively practicing medicine for financial reimbursement in a clinic, hospital or primary care setting.~~

~~GENERAL REQUIREMENTS~~

~~It shall be the duty of each FOLCMC to register with the Arkansas Department of Health on the forms approved by the Department. Clinics which can demonstrate through the registration process that they are rendering free or low cost services will be eligible under this program. Only retired physicians and/or surgeons who are still licensed to practice medicine by the Arkansas State Medical Board under the laws of the State of Arkansas and who render medical services voluntarily and without compensation to any person at any FOLCMC shall be eligible.~~

~~REGISTRATION PROCESS~~

~~Any clinic wishing to register as a FOLCMC under this act will be responsible for contacting the Department of health to request an application. An application for registration as a FOLCMC shall be accompanied by but not limited to the following:~~

- ~~1. Specific location of the clinic to include street and city;~~
- ~~2. A statement indicating that the mission of the clinic is to provide free or low cost devices;~~
- ~~3. Verification that the clinic is not receiving insurance payments for services rendered;~~
- ~~4. A list of all physicians currently providing services and their medical specialties;~~
- ~~5. A statement indicating that retired physicians delivering services in the clinic are not receiving any financial or other compensation from the clinic and are acting on a voluntary basis;~~
- ~~6. A copy of the retired physician's medical license; and~~

~~7. A copy of the clinic's policy for notifying patients that the physician rendering voluntary medical services is retired and that he/she is immune from civil suit. This policy must be in language understood by the patient.~~

~~The application must be returned to the Arkansas Department of Health. An application meeting the intent of this legislation will be approved for three years.~~

~~This is to certify that the foregoing Rules and Regulations Pertaining to the Retired Physician-Immunity Act were adopted by the Arkansas State Board of Health at a regular session of said Board in Little Rock, Arkansas on the 26th day of January, 1996.~~

~~/signed/~~

~~Sandra B. Nichols, M.D.~~

~~Secretary of Arkansas State Board of Health Director, Arkansas Department of Health~~

~~The foregoing Rules and Regulations, copy having been filed in my office, are hereby approved on this 15th day of February, 1996.~~

~~/signed/~~

~~Jim Guy Tucker~~

~~Governor State of Arkansas~~



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Sarah Huckabee Sanders

Renee Mallory, RN, BSN, Secretary of Health

Jennifer Dillaha, MD, Director

PUBLIC COMMENT REPORT

Proposed Repeal Of Rules and Regulations for Retired Physician Immunity Act

PUBLIC COMMENTS:

Public comment period expired October 15, 2024.

No comments received.

AGENCY RESPONSE:

Proceed to adoption.