

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/7/05
A Bill

HOUSE BILL 2431

5 By: Representatives Matayo, Mathis, Anderson
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO RENAME THE ARKANSAS DEPARTMENT OF HUMAN
10 SERVICES; TO MERGE THE ARKANSAS DEPARTMENT OF
11 HEALTH INTO THE ARKANSAS DEPARTMENT OF HEALTH AND
12 HUMAN SERVICES; TO CREATE THE HEALTHY ARKANSAS
13 DIVISION WITHIN THE ARKANSAS DEPARTMENT OF HUMAN
14 SERVICES; TO RENAME THE STATE BOARD OF HEALTH TO
15 THE STATE BOARD FOR A HEALTHY ARKANSAS; AND FOR
16 OTHER PURPOSES.
17

18 **Subtitle**

19 AN ACT TO MERGE THE ARKANSAS DEPARTMENT
20 OF HEALTH INTO THE ARKANSAS DEPARTMENT
21 OF HEALTH AND HUMAN SERVICES.
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Legislative purpose.

27 (a) The General Assembly declares that this act is necessary to:

28 (1) Improve the health of the citizens of Arkansas in an
29 effective and efficient manner; and

30 (2) Provide for administrative cost savings in the delivery of
31 health-related programs by combining overlapping functions and eliminating
32 duplications of functions of the Department of Health and the Department of
33 Human Services.

34 (b) It is the intent of the General Assembly to provide for an orderly
35 transfer of powers, authorities, duties, and functions of the Department of
36 Health to the Department of Human Services with a minimum of disruption of



1 governmental services and functions and with a minimum of expense.

2
3 SECTION 2. Renaming the Department of Human Services.

4 (a) Effective at 12:01 AM on July 1, 2005, the Department of Human
5 Services shall be renamed and shall be known as the Department of Health and
6 Human Services.

7 (b) The Arkansas Code Revision Commission shall replace all references
8 to "Department of Human Services" in the Arkansas Code with "Department of
9 Health and Human Services".

10
11 SECTION 3. Transfer of the Department of Health into the Department of
12 Health and Human Services.

13 (a)(1)(A) Effective at 12:01 AM on July 1, 2005, the Department of
14 Health is transferred to the Department of Health and Human Services.

15 (B) Effective at 12:01 AM on July 1, 2005, the Department
16 of Health shall be named and shall be known as the Healthy Arkansas Division
17 of the Department of Health and Human Services.

18 (2) All authority, powers, duties, and functions as established
19 by law for the Department of Health, including all purchasing, budgeting,
20 fiscal, accounting, human resources, payroll, legal, information systems,
21 maintenance, program support, administrative support, and other management
22 functions are transferred to the Department of Health and Human Services.

23 (3)(A) All records, personnel, property, unexpended balances of
24 appropriations, allocations, or other funds are transferred to the Department
25 of Health and Human Services for use by the Healthy Arkansas Division of the
26 Department of Health and Human Services.

27 (B)(i) All powers, duties, and functions, including, but
28 not limited to, rulemaking, regulation, and licensing, promulgation of rules,
29 rates, regulations and standards, and the rendering of findings, orders and
30 adjudications as established by law for the Department of Health are
31 transferred to the Director of the Department of Health and Human Services,
32 except as specified in this act.

33 (ii) All powers, duties, and functions, including,
34 but not limited to, rulemaking, regulation, and licensing, promulgation of
35 rules, rates, regulations, standards, all budgetary responsibilities, and the
36 rendering of findings, orders and adjudications as established by law for the

1 Breast Cancer Control Program or other transferred entities within the
2 Department of Health shall be retained exactly as they were prior to the
3 implementation of this act.

4 (b) Nothing in this act shall be construed to increase the authority
5 or powers of the Director of the Department of Health and Human Services or
6 the Healthy Arkansas Division of the Department of Health and Human Services
7 beyond those already conferred upon the Director of the Department of Health
8 or the Department of Health, except as specifically defined in this act.

9 (c) The Director of the Department of Health and Human Services shall
10 appoint and employ the Director of the Healthy Arkansas Division of the
11 Department of Health and Human Services.

12 (d) The Arkansas Code Revision Commission shall replace "Department of
13 Health" in the Arkansas Code with "Department of Health and Human Services."

14
15 SECTION 4. Renaming the State Board of Health to the State Board for a
16 Healthy Arkansas.

17 (a)(1) Effective at 12:01 AM on July 1, 2005, the State Board of
18 Health is transferred to the Department of Health and Human Services.

19 (2) Effective at 12:01 AM on July 1, 2005, The State Board of
20 Health shall be named and shall be known as the State Board for a Healthy
21 Arkansas.

22 (b) For the purposes of this act, the State Board for a Healthy
23 Arkansas shall receive administrative support from the Healthy Arkansas
24 Division of the Department of Health and Human Services but shall retain
25 exactly the same powers, authorities, duties, and functions prescribed by law
26 as it had prior to the transfer and shall have all rule- and regulation-
27 making authority prescribed by law to the Department of Health before the
28 transfer, except as provided for in this act, including, but not limited to:

29 (1) Rule making, regulation, licensing, and registration;

30 (2) The promulgation of rules, rates, regulations, and
31 standards;

32 (3) Examinations, investigations, inspections, and reviews; and

33 (4) The rendering of findings, orders, and adjudications.

34 (c) The Arkansas Code Revision Commission shall replace "State Board
35 of Health" in the Arkansas Code with "State Board for a Healthy Arkansas".

36

1 SECTION 5. Arkansas Code § 20-7-102 through 20-7-106 is amended to
2 read as follows:

3 20-7-102. Members - Appointment.

4 (a) The ~~State Board of Health~~ State Board for a Healthy Arkansas shall
5 consist of ~~twenty-two (22)~~ twenty-three (23) members, to be appointed by the
6 Governor as follows:

7 (1)(A) Seven (7) members of the board shall be licensed medical
8 doctors of good professional standing, to be appointed by the Governor as
9 follows:

10 (i) One (1) member shall be appointed from each of
11 the four (4) congressional districts of this state as established by § 7-2-
12 101 et seq.; and

13 (ii) Three (3) members shall be appointed from the
14 state at large from a list of not fewer than three (3) names presented for
15 each position by the Arkansas Medical Society.

16 (B) Notwithstanding the provisions of subdivision
17 (a)(1)(A) of this section, at least one (1) of the positions allocated for
18 licensed medical doctors shall be an osteopathic physician appointed from a
19 list of not fewer than three (3) names presented to the Governor by the
20 Arkansas Osteopathic Medical Association from the state at large;

21 (2) One (1) member shall be a regularly licensed, registered,
22 and practicing dentist who shall have had at least seven (7) years'
23 experience in the practice of his profession in this state. This member
24 shall be appointed from a list of not fewer than three (3) names presented by
25 the Arkansas State Dental Association;

26 (3) One (1) member shall be a registered professional engineer
27 who shall have had at least seven (7) years' experience in the practice of
28 his profession in this state. This member shall be appointed from a list of
29 not fewer than three (3) names presented by the Arkansas Society of
30 Professional Engineers;

31 (4) One (1) member shall be a regularly licensed professional
32 nurse who shall have been a resident of the state for at least seven (7)
33 years preceding the appointment and who shall have at least a bachelor's
34 degree and at least five (5) years' nursing experience in the state. This
35 member shall be appointed from a list of not more than three (3) names
36 presented by the Arkansas State Nurses Association;

1 (5) One (1) member shall be a regularly licensed pharmacist who
2 shall have been actively engaged in the practice of pharmacy for at least
3 seven (7) years preceding his appointment. This member shall be appointed
4 from a list of not fewer than three (3) names presented by the Arkansas
5 Pharmacists Association;

6 (6) One (1) member shall be a regularly licensed veterinarian
7 who shall have been actively engaged in the practice of veterinary medicine
8 for at least seven (7) years preceding his appointment. This member shall be
9 appointed from a list of not fewer than three (3) names presented by the
10 Arkansas Veterinary Medical Association;

11 (7) One (1) member shall be a registered sanitarian who shall
12 have had at least seven (7) years' experience in the practice of his
13 profession preceding his appointment. This member shall be appointed from a
14 list of not fewer than three (3) names presented by the Arkansas State Board
15 of Sanitarians;

16 (8) One (1) member shall be a hospital administrator who shall
17 have had at least seven (7) years' experience in the practice of his
18 profession in Arkansas. This member shall be appointed from a list of not
19 fewer than three (3) names presented by the Arkansas Hospital Association;

20 (9) One (1) member shall be a regularly licensed, registered,
21 and practicing optometrist who shall have had at least seven (7) years'
22 experience in the practice of his profession in this state. This member shall
23 be appointed from a list of not fewer than three (3) names presented by the
24 Arkansas Optometric Association;

25 (10) One (1) member shall be a regularly licensed and practicing
26 chiropractor. This member shall be appointed from a list of not fewer than
27 three (3) names submitted by the Arkansas Chiropractic Association or the
28 Arkansas Chiropractic Society;

29 (11) One (1) member shall be a restaurant operator who has owned
30 or operated a restaurant for a minimum of five (5) years. This member shall
31 be appointed by the Governor from a list of three (3) names submitted by the
32 Arkansas Hospitality Association;

33 (12) One (1) member shall be a consumer representative who has
34 an interest in public health. This member shall be appointed by the Governor
35 from the state at large;

36 (13) One (1) member shall be over sixty (60) years old and

1 represent the elderly. This person shall not be actively engaged in or
 2 retired from any occupation, profession, or industry to be regulated by the
 3 board. The member shall be appointed by the Governor from the state at large
 4 and be subject to confirmation by the Senate;

5 (14) One (1) member shall be a licensed doctor of podiatric
 6 medicine of good professional standing who shall have had at least seven (7)
 7 years' experience in the practice of the profession in this state. The member
 8 shall be appointed from a list of not fewer than three (3) names presented by
 9 the Arkansas Podiatric Medical Association;

10 (15) One (1) member shall be a member of the Arkansas Public
 11 Health Association. The member shall be appointed by the Governor from a
 12 list of three (3) names submitted by the Arkansas Public Health Association;
 13 ~~and~~

14 (16) One (1) member shall be a licensed medical doctor of good
 15 professional standing who shall be appointed from a rural county in the state
 16 which contains a medically underserved population-; and

17 (17) One (1) member shall be the Director of the Department of
 18 Health and Human Services or his or her designee.

19 (b) Each of the members of the board so appointed shall take the oath
 20 prescribed by the Constitution for the state officers and shall be
 21 commissioned by the Governor in the same manner as other state officials.

22
 23 20-7-103. Members - Officers.

24 (a) The members of the ~~State Board of Health~~ State Board for a Healthy
 25 Arkansas shall elect one (1) of the members as president, with the exception
 26 that the Director of the Department of Health and Human Services or his or
 27 her designee shall not serve as the President of the State Board for a
 28 Healthy Arkansas.

29 ~~(b)(1) With the approval of the Governor, the members shall also elect~~
 30 ~~a secretary who may or may not be a member of the board and who, if not a~~
 31 ~~member of the board, shall be a graduate of a legally constituted and~~
 32 ~~reputable medical college, shall be of good professional standing, and shall~~
 33 ~~have all the powers of the members of the board.~~

34 ~~(2) The secretary shall be known as the Director of the~~
 35 ~~Department of Health and shall be the executive officer of the board and~~
 36 ~~perform such duties as may be required of him by the board or by this~~

1 ~~subchapter.~~

2 ~~(3) He shall be elected for a term of four (4) years.~~

3 (b)(1) With approval of the board, the Governor shall appoint a Chief
4 Health Officer for the State of Arkansas who shall not be a current sitting
5 member of the board and who shall:

6 (A) Be a graduate of a legally constituted and reputable
7 medical college;

8 (B) Be of good standing; and

9 (C) Have all the powers of the members of the board.

10 (2) The Chief Health Officer for the State of Arkansas shall
11 also be known as the Secretary for the State Board for a Healthy Arkansas and
12 shall perform such duties as may be required of him or her by the board or by
13 this subchapter, including, but not limited to, the following:

14 (A) Serve as the public representative for the State Board
15 for a Healthy Arkansas;

16 (B) Serve as the board's representative on various other
17 state and private boards and commissions as required by the board or in
18 provisions of the Arkansas Code;

19 (C) Represent the board by providing health information
20 and assist the division in providing risk factor assessments in regard to
21 improving quality of health issues at public events; and

22 (D) Assist the board and the division in:

23 (i) The creation of various health oriented outreach
24 campaigns utilizing print, radio, and television public service
25 announcements, advertisements, posters, and other materials;

26 (ii) Targeting population segments at risk for
27 various health issues;

28 (iii) Providing reliable information on various
29 health issues to policy makers;

30 (iv) Distributing information through county health
31 departments, schools, area agencies on aging, employer wellness programs,
32 physicians, hospitals and health maintenance organizations, women's groups,
33 nonprofit organizations, and community-based organizations;

34 (v) Any other strategy for raising public awareness
35 about health issues that are consistent with the provisions of this
36 subchapter;

1 (vi) Identifying and obtaining educational materials
2 for the professional health care providers that translate the latest
3 scientific and medical information on various health issues into clinical
4 applications;

5 (vii) Raising awareness among professional health
6 care providers as to the importance of prevention, early detection,
7 treatment, and rehabilitation practices, techniques, and reporting measures
8 related to various health issues; and

9 (viii) Developing and conducting workshops and
10 seminars for in-depth professional development in the field of the care and
11 management related to various health issues.

12
13 20-7-104. Members - Compensation.

14 All appointed members of the ~~State Board of Health~~ State Board for a
15 Healthy Arkansas may receive expense reimbursement and stipends in accordance
16 with § 25-16-901 et seq.

17
18 20-7-105. Proceedings.

19 (a) The ~~State Board of Health~~ State Board for a Healthy Arkansas shall
20 meet at least one (1) time every three (3) months and, upon the call of the
21 president, the Director of the Department of Health and Human Services, or a
22 majority of the members of the board, shall meet at such other times as may
23 be necessary in the interest of public health.

24 (b) The board may adopt bylaws regulating the transaction of its
25 business and provide within the bylaws for the appointment of committees to
26 whom the board may delegate authority and power for all duties committed to
27 the board, but under the direction and subject to the control of the board.
28 The board may also adopt and use an official seal.

29 (c) A majority of the members of the board shall constitute a quorum
30 for the transaction of business and for the performance of such duties as the
31 board may prescribe.

32
33 20-7-106. Office.

34 The office of the ~~State Board of Health~~ State Board for a Healthy
35 Arkansas shall be located in Little Rock, and the board shall be furnished
36 with all necessary equipment and supplies, including laboratory supplies,

1 books, stationery, blanks, furniture, etc., as are provided other officers of
2 the state and as are necessary for carrying on the work of the board, and the
3 office is to be provided in a suitable building to be designated by the
4 ~~Governor~~ the Director of the Department of Health and Human Services.

5
6 SECTION 6. Public Health Fund renamed

7 (a) Effective at 12:01 AM on July 1, 2005, the Public Health Fund
8 shall be named and shall be known as the Healthy Arkansas Fund.

9 (b) The Arkansas Code Revision Commission shall replace "Public
10 Health Fund" in the Arkansas Code with "Healthy Arkansas Fund".

11
12 SECTION 7. Arkansas Code § 20-64-1001 is amended to read as follows:
13 20-64-1001. Arkansas Drug Director.

14 (a)(1) There is created within the Office of the Governor a position
15 of Arkansas Drug Director, who shall serve at the pleasure of the Governor.

16 (2) Effective at 12:01 AM July 1, 2005, the position of Arkansas
17 Drug Director is transferred to the Division of Behavioral Health of the
18 Department of Human Services.

19 (b) The director shall serve as the coordinator for development of an
20 organizational framework to ensure that alcohol and drug programs and
21 policies are well planned and coordinated.

22 (c) The director, in cooperation with the Department of Finance and
23 Administration, shall perform financial monitoring of each drug task force of
24 the state to ensure that grant funds are being expended according to law and
25 to ensure that the drug task force's financial record system is adequate to
26 provide a clear, timely, and accurate accounting of all asset forfeitures,
27 revenues, and expenditures.

28 (d)(1) The director shall maintain an office, at a location to be
29 determined by the Director of the Division of Behavioral Health of the
30 Department of Health and Human Services, at which all records required by law
31 to be kept by the director shall be maintained.

32 (2) The director is authorized to establish and enforce rules
33 and regulations regarding the management of the Special State Assets
34 Forfeiture Fund, created in § 5-64-505, and the maintenance and inspection of
35 drug task force records concerning asset forfeitures, revenues, expenditures,
36 and grant funds.

1 (3) The director of the Division of Behavioral Health of the
2 Department of Health and Human Services is authorized to hire employees to
3 assist in these functions.

4
5 SECTION 8. Arkansas Code § 25-9-101 is amended to read as follows:

6 25-9-101. Creation – Director – Organization – Personnel.

7 (a) There is created ~~a Department of Health~~ the Healthy Arkansas
8 Division of the Department of Health and Human Services. ~~The executive head~~
9 ~~of the Department of Health shall be the Director of the Department of~~
10 ~~Health.~~ The executive head of the division shall be the Director of the
11 Healthy Arkansas Division of the Department of Health and Human Services.

12 (b) The ~~department~~ Healthy Arkansas Division shall consist of the
13 divisions which existed as of July 1, 1971, within the State Board of Health,
14 created by § 20-7-101 et seq., and any other divisions or units which may be
15 created by law and placed under the ~~department~~ Healthy Arkansas Division.

16 (c) The director of the division, with the advice and consent of the
17 ~~Governor~~ Director of the Department of Health and Human Services, shall
18 appoint the heads of the respective ~~divisions~~ units of the division. All
19 other personnel of the ~~department~~ division shall be employed by and shall
20 serve at the pleasure of the director of the division. Provided, nothing in
21 this section shall be so construed as to reduce any right which an employee
22 of the ~~department~~ division shall have under any civil service or merit
23 system.

24 (d) Each ~~division of the department~~ unit of the division shall be
25 under the direction, control, and supervision of the director of the
26 division. The director of the division, with the consent of the Director of
27 the Department of Health and Human Services, may delegate his or her
28 functions, powers, and duties to various ~~divisions of the department~~ units of
29 the division as he or she shall deem desirable and necessary for the
30 effective and efficient operation of the ~~department~~ division.

31 (e)(1) The ~~department~~ division shall maintain an Office of Oral
32 Health.

33 (2) The Director of the Office of Oral Health shall be an
34 experienced public health dentist licensed to practice under the Arkansas
35 Dental Practice Act, § 17-82-101 et seq.

36 (3) The Director of the Office of Oral Health shall:

1 (A) Plan, direct, and coordinate all dental public health
2 programs with other local, state, and national health programs;

3 (B) Serve as the department's chief advisor on matters
4 involving oral health; and

5 (C) Plan, implement, and evaluate all oral health programs
6 within the department.

7
8 SECTION 9. Arkansas Code § 25-10-101 is amended to read as follows:
9 25-10-101. Creation – Appointment of director.

10 (a) There is created a Department of Health and Human Services.

11 (b) The executive head of the department shall be the Director of the
12 Department of Health and Human Services. The director shall be appointed by
13 the Governor with the consent of the Senate and shall serve at the pleasure
14 of the Governor.

15
16 SECTION 10. Arkansas Code § 25-10-102 is amended to read as follows:
17 25-10-102. Organization generally.

18 (a) The Department of Health and Human Services shall consist of and
19 be operated under an integrated service system consisting of the following
20 ~~eleven (11)~~ twelve (12) divisions with responsibility and programs assigned
21 to them as determined by the Director of the Department of Health and Human
22 Services:

23 (1) A Division of Aging and Adult Services;

24 (2) A Division of Medical Services;

25 (3) A Division of Behavioral Health, which shall include
26 community mental health centers, state hospitals, and the Bureau of Alcohol
27 and Drug Abuse Prevention;

28 (4) A Division of Developmental Disabilities Services, which
29 shall include both community programs and human development centers;

30 (5) A Division of County Operations;

31 (6) A Division of Administrative Services;

32 (7) A Division of Youth Services, which shall include serious
33 offender and community-based programs and the youth service centers;

34 (8) A Division of Volunteerism;

35 (9) A Division of State Services for the Blind;

36 (10) A Division of Children and Family Services; ~~and~~

1 (11) A Division of Child Care and Early Childhood Education,
2 and

3 (12) A Healthy Arkansas Division.

4 (b)(1)(A) Each division of the Department of Health and Human Services
5 shall be under the direction, control, and supervision of the director.

6 (B) From time to time, the director may transfer or assign
7 existing duties or new programs or duties of the department to offices,
8 sections, or units as he or she deems necessary for the efficient and
9 necessary operation of the department.

10 (C) Prior to implementation of any reorganization, the
11 director shall obtain the advice of the House and Senate Interim Committees
12 on State Agencies and Governmental Affairs.

13 (2)(A) However, the state institutions and the operation of
14 state institutional programs under the jurisdiction of the Board of
15 Developmental Disabilities Services and the Department of Health and Human
16 Services State Institutional System Board, as provided by law, shall be under
17 the control of their respective boards.

18 (B) The boards shall perform their respective functions
19 and duties under the general guidelines and standards promulgated by the
20 director.

21 (3) The Division of State Services for the Blind and the Board
22 of the Division of State Services for the Blind shall continue to function
23 within the Department of Health and Human Services with the powers prescribed
24 in § 25-10-201 et seq.

25
26 SECTION 11. Arkansas Code § 25-10-401 is amended to read as follows:
27 25-10-401. Creation.

28 The state institutions of the Department of Health and Human Services,
29 known as the State Hospital for the Mentally Ill at Little Rock, the long-
30 term care facility at Benton, the George W. Jackson Mental Health Center at
31 Jonesboro, the youth services centers located at Alexander and North Little
32 Rock, and all other facilities owned and operated by the Department of Health
33 and Human Services for youth services or mental health treatment are hereby
34 consolidated to form the Department of Health and Human Services State
35 Institutional System.

36

1 SECTION 12. Arkansas Code § 25-10-402 is amended to read as follows:
2 25-10-402. Purpose – Guidelines.

3 (a) The Department of Health and Human Services State Institutional
4 System Board is hereby established to manage the Department of Health and
5 Human Services State Institutional System, as provided and intended by
6 Arkansas Constitution, Amendment 33.

7 (b) The board shall perform its functions and duties in accordance
8 with the general guidelines, policies, and regulations of the Department of
9 Health and Human Services governing divisions, offices, sections, or units
10 within the department with respect to budgets, personnel and personnel
11 policies, records, purchasing, bookkeeping, and other administrative
12 procedures prescribed by the Director of the Department of Health and Human
13 Services.

14
15 SECTION 13. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly of the State of Arkansas that this act renames the
17 Department of Human Services as the Department of Health and Human Services
18 and merges the Department of Health into the Department of Health and Human
19 Services; that this act is necessary in order to more effectively deliver
20 services to the people of Arkansas; and that for an efficient transition, the
21 new department should be established at the beginning of the next fiscal
22 year. Therefore, an emergency is declared to exist and this act being
23 necessary for the preservation of the public peace, health, and safety shall
24 become effective on July 1, 2005.

25
26 /s/ Matayo, et al
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