

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

June 19, 2020

Co-Chairs:

The Administrative Rules Subcommittee met on Wednesday, June 17, 2020, at 8:00 a.m., in Room A, MAC.

- 1. The Subcommittee adopted the attached Executive Subcommittee Reports concerning emergency rules.**
- 2. The Subcommittee reviewed and filed the following agencies' Quarterly Reports on Administrative Directives pursuant to Act 1258 of 2015, for the quarter ending March 31, 2020:**
 - a. Department of Corrections (Mr. Solomon Graves)**
 - b. Parole Board (Ms. Brooke Cummings)**
- 3. The Subcommittee reviewed and approved the following rules filed pursuant to Ark. Code Ann. § 10-3-309:**

DEPARTMENT OF AGRICULTURE, STATE PLANT BOARD (Mr. Wade Hodge, Mr. Scott Bray)

- a. Reciprocity and Temporary Licensure Rule**
- b. Produce Safety Rule and Enforcement Response Rule**

DEPARTMENT OF AGRICULTURE, VETERINARY MEDICAL EXAMINING BOARD (Mr. Wade Hodge)

- a. Fees (092.00.1-2)**
- b. Continuing Education (092.00.1-3)**
- c. Veterinary Technology – Levels of Supervision (092.00.1-14)**

- d. **Military Automatic Licensure (092.00.1-15)**
- e. **Reciprocity and Temporary Permits (092.00.1-17)**
- f. **Rules of the Arkansas Veterinary Medical Examining Board**

**DEPARTMENT OF COMMERCE, ARKANSAS ECONOMIC DEVELOPMENT
COMMISSION (Ms. Renee Doty, Mr. Jim Hudson)**

- a. **Equity Investment Incentive Act of 2007**
- b. **Digital Product and Motion Picture Development Act Rule**
- c. **Donations or Sales of Equipment to Educational Institutions Tax Credit Program**

**DEPARTMENT OF COMMERCE, OFFICE OF SKILLS DEVELOPMENT (Mr.
Cody Waits)**

- a. **Secondary Center Rule Changes to Comply with Act 179 of 2019**

**DEPARTMENT OF EDUCATION, DIVISION OF ELEMENTARY AND
SECONDARY EDUCATION (DESE) (Mr. Taylor Dugan, items a-f; Ms. Stacy
Smith, item a; Ms. Karli Saracini, item d; Ms. Melissa Jacks, item d; Ms. Mary
Claire Hyatt, items g, h; Ms. Lori Freno, items i, j, k; Ms. Courtney Salas-Ford,
items l, m)**

- a. **DESE Rules Governing Home Schools**
- b. **DESE Rules Governing Educator Licensure**
- c. **DESE Rules Governing the Code of Ethics for Arkansas Educators**
- d. **DESE Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards (NBPTS)**
- e. **DESE Rules Governing Scoliosis Screening**
- f. **DESE Rules Governing Background Checks**
- g. **DESE Rules Governing Documents Posted to School District and Education Service Cooperative Websites**
- h. **DESE Rules Governing Act 1240 Waivers**

- i. DESE Rules Governing the Arkansas Teacher of the Year Program**
- j. DESE Rules Governing Immunization Requirements in Arkansas Public Schools**
- k. DESE Rules Governing Public School Student Services (REPEAL)**
- l. DESE Rules Governing Student Special Needs Funding**
- m. DESE Rules Governing the Succeed Scholarship Program**

DEPARTMENT OF EDUCATION, DIVISION OF HIGHER EDUCATION (Ms. Ann Clemmer)

- a. State Teacher Education Program**
- b. Arkansas Governor's Scholars Program**
- c. Arkansas Academic Challenge Scholarship**

DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY (Mr. Shane Khoury, Mr. Micheal Grappe)

- a. Rule 27: Licensing of Operators of Solid Waste Management Facilities and Training and Certification Requirements for Environmental Officers**

DEPARTMENT OF FINANCE AND ADMINISTRATION, ALCOHOLIC BEVERAGE CONTROL DIVISION (Ms. Doralee Chandler, Mr. Chip Leibovich)

- a. Oversight of Medical Marijuana Cultivation Facilities, Processors and Dispensaries**

DEPARTMENT OF HEALTH, CENTER FOR HEALTH PRACTICE (Ms. Laura Shue)

- a. Rules for the Administration of Vital Records**

DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS AND COMMISSIONS, STATE BOARD OF EXAMINERS OF ALCOHOLISM & DRUG ABUSE COUNSELORS (Ms. Pam Fite, Ms. Carol Moore)

- a. Rules Governing Alcoholism & Drug Abuse Counselors**

DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS AND COMMISSIONS, STATE BOARD OF ATHLETIC TRAINING (Ms. Nancy Worthen)

- a. Arkansas State Board of Athletic Training Rules**

DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS AND COMMISSIONS, STATE BOARD OF CHIROPRACTIC EXAMINERS (Dr. Sarah Hays)

- a. Licensure for Military Veterans**

DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS AND COMMISSIONS, ARKANSAS BOARD OF EXAMINERS IN COUNSELING (Ms. Lenora Erickson)

- a. Rules of the Arkansas Board of Examiners in Counseling**

DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS AND COMMISSIONS, STATE BOARD OF DENTAL EXAMINERS (Mr. Kevin O'Dwyer)

- a. Article XXIII – Pre-Licensure Criminal Background Check**
- b. Article XI – Dental Hygienists Functions**
- c. Article XIII – Analgesia, Conscious Sedation, Deep Sedation, and General Anesthesia Rules for Dentist in an Ambulatory Facility**

DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS AND COMMISSIONS, DIETETICS LICENSING BOARD (Ms. Kimberly Jablonski)

- a. Arkansas Dietetics Licensing Board Rules**

DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS AND COMMISSIONS, STATE BOARD OF NURSING (Ms. Sue Tedford)

- a. Arkansas State Board of Nursing Rules**

DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS AND COMMISSIONS, STATE BOARD OF OPTOMETRY (Mr. Kevin O'Dwyer)

- a. Chapter I, Article IV – Reciprocity, Licensure by Endorsement, Military Personnel**

b. Chapter IX, Article I – Pre-Licensure Criminal Background Check

**DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS
AND COMMISSIONS, ARKANSAS PSYCHOLOGY BOARD (Ms. Susan Cooper)**

a. Arkansas Psychology Board Rules

**DEPARTMENT OF HEALTH, DIVISION OF HEALTH RELATED BOARDS
AND COMMISSIONS, SOCIAL WORK LICENSING BOARD (Ms. Ruthie Bain)**

a. Rules of the Arkansas Social Work Licensing Board

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF CHILDREN & FAMILY
SERVICES (Ms. Christin Harper, Mr. Mark White)**

a. Child Maltreatment Investigation Determinations Updates

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF COUNTY
OPERATIONS (Mr. Mark White)**

**a. Medical Services Policy Sections A-100; B-300; C-200; E-400; F-100; H-400;
I-300; I-500; I-600; SPA #2019-0007 to Update Income Offsets Pursuant to
Acts 2017, No. 892**

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF DEVELOPMENTAL
DISABILITIES SERVICES (Mr. Mark White)**

a. Children with Chronic Health Conditions (CHC)

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES
(Mr. Mark White)**

**a. SPA #2020-0011; ARChoices Medicaid Provider Manual, Personal Care
Medicaid Provider Manual, and Targeted Case Management Medicaid
Provider Manual**

b. SPA #2019-002, Section 1004 of the SUPPORT Act

**c. Technical Corrections – Removal of References to Provider Electronic
Solutions (PES) Software & Updating Outdated Terminology in Arkansas
Medicaid Provider Manuals**

d. SPA #2020-0003 EIDT/ADDT Rate Increase

**e. SPA #2020-0001 Self-Direction Budget Calculation Methodology & IC
Provider Manual**

- f. SPA #2020-0008 Physicians' Evaluation & Management Code Rate Increase
- g. SPA #2020-0005 Vaccine Administration Fee Rate Increase

DEPARTMENT OF LABOR AND LICENSING, DIVISION OF LABOR (Ms. Denise Oxley)

- a. Administrative Rules Regarding the Arkansas Minimum Wage
- b. Administrative Rules Regarding Child Labor
- c. Administrative Rules Regarding Organization and Procedure of the Labor Standards Section

DEPARTMENT OF LABOR AND LICENSING, DIVISION OF OCCUPATIONAL & PROF. LICENSING BOARDS AND COMMISSIONS, APPRAISER LICENSING & CERTIFICATION BOARD (Ms. Diana Piechocki)

- a. Appraisal Management Company National Registry Fees
19-0004

COMMISSION FOR ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION (CAPSAFT) (Ms. Lori Freno)

- a. CAPSAFT Rules Governing the Partnership Program, Appendix "A"
(Amended to Add Section 8000)
 - b. CAPSAFT Rules Governing Acquisition of Energy Conservation Measures
4. The agency withdrew the following rule from consideration at the Subcommittee meeting for further study:

DEPARTMENT OF AGRICULTURE, ARKANSAS LIVESTOCK AND POULTRY COMMISSION (Mr. Wade Hodge)

- a. Garbage Feeding
5. The Subcommittee reviewed and approved the following rules filed pursuant to Ark. Code Ann. § 10-3-309, with a change agreed upon by the agency during discussions at the Subcommittee meeting, specifically, that the term "a reasonable amount of time" would be stated with more specificity:

**DEPARTMENT OF AGRICULTURE, STATE BOARD OF REGISTRATION
FOR PROFESSIONAL SOIL CLASSIFIERS (Mr. Wade Hodge)**

- a. **Rules of the Arkansas State Board of Registration for Professional Soil Classifiers**

**DEPARTMENT OF AGRICULTURE, VETERINARY MEDICAL EXAMINING
BOARD (Mr. Wade Hodge)**

- a. **Pre-Licensure Criminal Background Check and Waiver Request
(092.00.1-16)**

6. **The Subcommittee reviewed and approved the following rule filed pursuant to Ark. Code Ann. § 10-3-309, with an additional change the agency proposed as requested by the Centers for Medicare & Medicaid Services (CMS), specifically, adding language “For all other DME claims not covered by Section 1903(i)(27) of the Social Security Act, rates will be set as follows”:**

**DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES
(Mr. Mark White)**

- a. **SPA #2020-007 Durable Medical Equipment Rate Adjustment**

7. **The Subcommittee voted to not approve the following rules filed pursuant to Ark. Code Ann. § 10-3-309 on the grounds that the rules are inconsistent with legislative intent:**

**DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF
ENVIRONMENTAL QUALITY (Ms. Becky Keogh, Mr. Micheal Grappe, and Mr.
Shane Khoury)**

- a. **Rule 5: Liquid Animal Waste Management Systems**
- b. **Rule 6: State Administration of the National Pollutant Discharge Elimination System (NPDES)**

8. **The Subcommittee reviewed and filed letters concerning agency updates on delinquent rulemaking under Act 517 of 2019.**

Respectfully submitted,

Senator Lance Eads, Co-Chair

Representative Dan Sullivan, Co-Chair

ARKANSAS LEGISLATIVE COUNCIL

Officers

Senator Cecile Bledsoe
Senate Chair
Representative Jeff Wardlaw
House Chair
Senator Terry Rice
Senate Vice Chair
Representative Jim Dotson
House Vice Chair



Room 315, State Capitol Building
Little Rock, AR 72201

Marty Garrity
Executive Secretary

Tel: 501-682-1937
Fax: 501-682-1936

May 15, 2020

Senator Lance Eads
Senate Co-Chair
Administrative Rules Review Section
via email


Representative Dan Sullivan
House Co-Chair
Administrative Rules Review Section
via email

Dear Co-Chairs:


This letter is to notify you that, pursuant to Act 1258 of 2015, the Executive Subcommittee met on May 15, 2020 to consider the request from Department of Commerce – Arkansas Economic Development Commission to review and approve the emergency rule, "*Military Affairs Grant Program*) to amend the current rule to allow for special emergency applications for funding during the COVID-19 declared State of Emergency". A copy of the emergency rule is attached for your information.

The emergency rule was reviewed and approved, and the review and approval was effective upon adjournment of the Arkansas Legislative Council (ALC) meeting on Friday, May 15, 2020.

Respectfully,



Senator Cecile Bledsoe
Senate Co-Chair
Executive Subcommittee



Representative Jeff Wardlaw
House Co-Chair
Executive Subcommittee

CB/JW:sla

Attachment

cc: Ms. Jessica Sutton, Administrator, Administrative Rules and Regulations Review Section
via email

ARKANSAS LEGISLATIVE COUNCIL

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Room 315, State Capitol Building
Little Rock, AR 72201

Marty Garrity
Executive Secretary

Tel: 501-682-1937
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May 15, 2020

Senator Lance Eads
Senate Co-Chair
Administrative Rules Review Section
via email

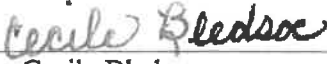
Representative Dan Sullivan
House Co-Chair
Administrative Rules Review Section
via email

Dear Co-Chairs:


This letter is to notify you that, pursuant to Act 1258 of 2015, the Executive Subcommittee met on May 15, 2020 to consider the request from Arkansas State Board of Nursing to review and approve the emergency rule, "*to amend Chapter 2 – Licensure: RN, LPN, and LPTN, pg. 2-7, Section VII, C., 3, Continuing Education, to require 1,000 hours of active practice from within the past one year to within the past two years*". A copy of the emergency rule is attached for your information.

The emergency rule was reviewed and approved, and the review and approval was effective upon adjournment of the Arkansas Legislative Council (ALC) meeting on Friday, May 15, 2020.

Respectfully,



Senator Cecile Bledsoe
Senate Co-Chair
Executive Subcommittee



Representative Jeff Wardlaw
House Co-Chair
Executive Subcommittee

CB/JW:sla

Attachment

cc: Ms. Jessica Sutton, Administrator, Administrative Rules and Regulations Review Section
via email