

**September 3, 2013, meeting documents carried over  
to September 12, 2013, meeting**

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**Arkansas Health  
Insurance Marketplace**

**Board of Directors Meeting**

**September 12, 2013**

# ARTICLES OF INCORPORATION

**State of Arkansas**

**Articles of Incorporation - Domestic Nonprofit**

**Arkansas Health Insurance Marketplace**

The undersigned, acting as the incorporator of a corporation under the Arkansas Nonprofit Corporation Act of 1993, Ark. Code § 4-33-101 et seq., adopts the following Articles of Incorporation on behalf of the corporation.

**Article 1. Name**

**Section 1.01. Name.**

The name of the corporation is the "Arkansas Health Insurance Marketplace".

**Article 2. Type**

**Section 2.01. Type of Corporation.**

This corporation is a Nonprofit Public Benefit Corporation.

**Article 3. Purpose**

**Section 3.01. Purpose of Corporation.**

The corporation's primary purpose is to provide the eligible citizens of Arkansas with a state-based health insurance marketplace.

**Article 4. Power**

**Section 4.01. Power of the Corporation.**

The corporation shall have all powers granted to the Arkansas Health Insurance

Marketplace and a Domestic Nonprofit under applicable law. The corporation shall also have all the powers vested in it by the Articles of Incorporation and Operating Rules.

**Article 5. Dissolution**

**Section 5.01. Dissolution.**

The corporation may be dissolved and its assets distributed under the Arkansas Nonprofit Corporation Act of 1993, Ark. Code § 4-33-101 et seq.

**Article 6. Members/Board of Directors/Officers**

**Section 6.01. Members/Board of Directors/Officers.**

The corporation will not have members, but shall be operated through an Executive Director who shall report to a Board of Directors.

**Article 7. Incorporating Information**

**Section 7.01. Corporation's Initial Registered Agent:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Section 7.02. Corporation's Primary Address:**

Address: \_\_\_\_\_

**Section 7.03. Incorporator Information:**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

# **OPERATING RULES**

BOARD OF DIRECTORS OF THE  
ARKANSAS HEALTH INSURANCE  
MARKETPLACE

OPERATING RULES

**DRAFT**

## I. STATEMENT OF ORGANIZATION AND OPERATIONS

### A. Operations.

The Arkansas Health Insurance Marketplace is a nonprofit legal entity that is a political subdivision, instrumentality, and body politic of the State of Arkansas created by Act 1500 of 2013, Ark. Code § 23-61-801 et seq. The Marketplace is exempt from the laws governing state agencies, including without limitation the Arkansas Procurement Law, Ark. Code § 19-11-201 et seq.; the Uniform Classification and Compensation Act, Ark. Code § 21-5-201 et seq.; and the Arkansas Administrative Procedure Act, Ark. Code § 25-15-201 et seq. The Marketplace is subject to the Freedom of Information Act of 1967, Ark. Code § 25-19-101 et seq.

The General Assembly has delegated to the Board of Directors of the Arkansas Health Insurance Marketplace the authority to plan and administer the Marketplace; enter into contracts with eligible entities to assist with the planning, implementation, and operation of the Marketplace; hire an executive director and interim staff; enter into information sharing agreements with federal and state agencies and other state marketplaces to carry out its responsibilities; provide claims and other plan and enrollment data to the Department of Human Services and the Insurance Commissioner when requested; apply for state, federal, or private funding on or after July 1, 2015; coordinate with the Insurance Commissioner to apply for state, federal, or private funds before July 1, 2015; enter into a memorandum of understanding with the Insurance Commissioner concerning the use of state, federal, or private funds received by the Insurance Commissioner that may be used by the Marketplace; and perform any duties identified under state or federal law, including without limitation the obligations stated in Ark. Code §§ 23-61-803 through 23-61-806.

The Marketplace staff acts as the administrator and operating entity of the Board. The staff may act as spokesperson for the Marketplace, receive correspondence and correspond on behalf of the Marketplace, provide legal and other research to the Marketplace, investigate allegations of violations of laws under the Marketplace's jurisdiction, and perform such other functions as the Board deems appropriate.

Unless otherwise provided by these rules or by state or federal law, these rules of practice and procedure shall govern all proceedings before the Board and shall be applicable to the adoption, amendment, or repeal of a policy, procedure, or rule of the Marketplace filed or initiated after the effective date of these rules. The adoption, amendment, or repeal of a policy, procedure, or rule shall comply with Ark. Code § 23-61-803.

### B. Board Organization.

1. The Board shall consist of eleven (11) members.

2. The members shall be appointed as follows:

a. Three (3) members by the Governor of the State of Arkansas;

b. Three (3) members by the Speaker of the Arkansas House of Representatives; and

c. Three (3) members by the President Pro Tempore of the Arkansas Senate.

3. The following public officials shall serve as members:

a. The Insurance Commissioner or his or her designee; and

b. The Director of the Department of Human Services or his or her designee.

4. The Governor shall appoint one (1) member who is a representative of insurance agents or brokers licensed to sell health insurance in Arkansas and two (2) members who are consumer representatives.

5. The President Pro Tempore shall appoint one (1) member who is a representative of a health insurer and one (1) member who is a representative of small employers.

6. The Speaker of the House shall appoint one (1) member who is a representative of a health insurer and one (1) member who is licensed by a health-related profession in Arkansas.

7. The appointing authorities shall ensure that a majority of the voting members of the Board have relevant experience in:

a. Health benefits administration;

b. Healthcare finance;

c. Health plan purchasing;

d. Healthcare delivery system administration; or

e. Public health or health policy issues related to the small group and individual markets and the uninsured.

8. Of the initial appointees to the Board by the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives, the appointing authority shall designate one (1) appointee to serve a term of four (4) years; one (1) appointee to serve a term of six (6) years; and one (1) appointee to serve a term of eight (8) years. All succeeding appointees to the Board shall be appointed for a term of six (6) years.

9. A member may resign at any time by delivering written notice to the Board. A resignation is effective when it is delivered to the Board, unless the notice specifies a later effective date.

10. A member subsequently appointed to the Board under subsection two (2) of this

section shall serve a term of six (6) years.

**C. Removal.**

1. A member of the Board may be removed by the appointing authority for:

a. Misconduct;

b. Incompetence; or

c. Any malfeasance in office.

2. The appointing authority shall appoint a qualified individual to replace the removed member of the Board.

3. An order of removal of a Board member by the appointing authority shall:

a. Be in writing;

b. Be delivered to the removed Board member or counsel for the removed Board member; and

c. Specifically set out the grounds relied upon for removal. (LANGUAGE MAY BE MODIFIED)

**D. Staff Organization.**

**1. Executive Director**

a. The Board shall employ an Executive Director who shall serve at the will and pleasure of the Board.

b. The Executive Director shall employ a staff to assist in the administration of the Marketplace.

c. The Executive Director shall be responsible to the full Board and shall not be answerable to an individual member. However, the Executive Director shall ensure that the Chair of the Board is advised of the progress and conduct of the employees and operation of the Marketplace's office.

**2. Interim Staff**

The Board may employ necessary staff on an interim basis until an Executive Director is hired.

## II. INFORMATION FOR PUBLIC GUIDANCE

1. The Marketplace shall make available a list of persons holding certain responsibilities for handling Freedom of Information Act requests, responding to operation questions, addressing complaints, and handling its procedures concerning the adoption, amendment, or repeal of a rule, policy, or procedure of the Marketplace. The names, mailing addresses, telephone numbers, and electronic mail addresses can be obtained from the Marketplace's office or website.

2. The Marketplace shall maintain and make the following available on its website and from the Marketplace's office:

- a. Official forms;
- b. Written statements of a rule, policy, or procedure;
- c. Written interpretative memoranda of a rule, policy, or procedure, if applicable; and
- d. Information and documents required under the Freedom of Information Act, Ark. Code § 25-19-101 et seq.

3. The Marketplace shall file with the Arkansas Health Insurance Marketplace Legislative Oversight Committee, the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research a copy of each rule, policy, or procedure adopted by it and a statement of financial impact for the rule, policy, or procedure.

## III. GENERAL ORGANIZATION

### A. Officers.

1. The Board shall select a Chair, Vice-Chair, Secretary/Treasurer. (LANGUAGE MAY BE MODIFIED) and such other officers as a majority of the Board choose. The Board shall elect at its first meeting following July 1 of each year a Chair, Vice Chair, and Secretary/Treasurer.

2. The Chair shall be a member of the Board and shall:

- a. Preside at the meetings of the Board with the authority to vote;
- b. Call meetings and special meetings as required;
- c. Appoint or provide for the election of all committees; and
- d. Perform such other duties as may be prescribed by law or by action of the

Board.

3. The Vice-Chair shall be a member of the Board and shall perform the duties and have the powers of the Chair during the absence or disability of the Chair.

4. The Secretary/Treasurer shall be a member of the Board and shall attest the official actions of the Board.

**B. Standard of Conduct.**

A member of the Board shall discharge his or her duties:

1. In good faith;

2. With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

3. In a manner the member reasonably believes to be in the best interests of the Marketplace.

4. A member of the Board acting in good faith may rely on information provided to him or her in accordance with Ark. Code § 4-33-830.

**C. Conflicts of Interest.**

Members of the Board and the Marketplace's staff shall maintain constant vigilance against conflicts of interest and against the appearance of conflicts of interest in accordance with Ark. Code § 4-33-831.

**D. Liability.**

The Board and its employees shall not be liable for the obligations of the Marketplace.

**E. Indemnification.**

The Board and its employees may be indemnified under Ark. Code §§ 4-33-852, 4-33-854, and 4-33-856. (LANGUAGE MAY BE MODIFIED)

**F. Legal Representation.**

The Board may provide for legal representation for members or employees of the Board.

**G. Meetings.**

1. The business of the Board shall be conducted in public meetings pursuant to the Freedom of Information Act, Ark. Code § 25-19-101 et seq. and guided by Robert's Rules of Order. Regular meetings will be held quarterly. Special meetings will be held at the call of the Chair or four (4) Board members. (LANGUAGE MAY BE MODIFIED)

2. A majority of the total membership of the Board, whether present in the meeting room, via telephone, teleconference, or similar technology, constitutes a quorum for the transaction of business. (LANGUAGE MAY BE MODIFIED)

3. The Chair shall prepare a proposed agenda for each regular meeting. The proposed agenda shall be distributed to the Board and made available to the public in advance of the meeting. Any member of the Board may add items to the agenda by notifying the Chair before the scheduled meeting date and time. An item may be added to the agenda during the meeting upon the majority vote of the members present at the meeting.

#### **H. Committees.**

The Board may create standing and ad hoc committees. The Board may appoint members to a committee by a majority vote of a quorum of members present. A quorum for the transaction of committee business is a majority of the number of voting members of the committee.

#### **I. Compensation.**

1. Subject to review by the Arkansas Health Insurance Marketplace Legislative Oversight Committee, the Board may authorize by a majority vote of the total membership of the Board cast during its first regularly scheduled meeting of each calendar year the:

a. Payment to its members of a stipend per day not to exceed one hundred dollars (\$100) for each meeting attended or for any day while performing substantive business of the Board; and

b. Reimbursement of actual expenses while performing substantive business of the Board.

2. Members of the Board shall receive no other compensation, expense reimbursement, or in-lieu-of payments.

3. For purposes of these rules "substantive business" means \_\_\_\_\_.

#### **J. Accounting.**

The Board shall keep an accurate accounting of all activities, expenditures, and receipts on behalf of the Marketplace and report to the Arkansas Health Insurance Marketplace Legislative Oversight Committee upon the Committee's request.

**K. State, Federal, or Private Grants.**

1. If the Insurance Commissioner applies for and receives state, federal, or private grant funds available to assist with the planning, implementation, and operation of the Marketplace, the Marketplace may enter into a memorandum of understanding with the Insurance Commissioner concerning the use and expenditure of the funds in a manner authorized by state or federal law, including without limitation Ark. Code § 23-61-803.

2. The Marketplace may apply for state, federal, public, or private funding in the time specified in state or federal law, including without limitation Ark. Code § 23-61-803.

**IV. RULES, POLICIES, AND PROCEDURES**

**A. Authority.**

Ark. Code § 23-61-803 requires the Marketplace to promulgate rules, policies, and procedures to implement its statutory obligations.

**B. Initiation of Rule-making.**

The process of adopting a new rule, policy, or procedure or amending or repealing an existing rule, policy, or procedure (hereinafter referred to as “rule-making”) may be initiated by request of the Board or Executive Director that the staff submit proposed drafts.

**C. Notice.**

The Marketplace shall give notice of the proposed rule-making pursuant to Ark. Code § 23-61-803.

**D. Public Input.**

1. In accordance with Ark. Code § 23-61-803, an interested person may petition the Marketplace within a specified period of the rule-making for an oral hearing. An oral hearing shall be granted if requested by twenty-five (25) people, by a governmental subdivision or agency, or by an association having no fewer than twenty-five (25) members.

2. A public hearing will provide affected persons and other members of the public a reasonable opportunity for presentation of evidence, arguments, and oral statements within reasonable conditions and limitations imposed by the Marketplace to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings.

3. The Chair, a member of the Board, or a person designated by the Board may preside at the public hearing. The Marketplace must ensure that its personnel responsible for preparing the proposed rule, policy, or procedure or amendment are available to explain the proposal and to respond to questions or comments regarding the proposed rule, policy, or procedure.

4. A person may submit written statements within a specified period of time. All timely, written statements will be considered by the Marketplace and be made a part of the rule-making record.

**E. Decision to Adopt, Amend or Repeal a Rule, Policy, or Procedure.**

1. The Marketplace shall not finalize language of a rule, policy, or procedure or decide whether to adopt a rule, policy, or procedure until the period for public comment has expired.

2. Before acting on a proposed rule, policy, or procedure the Marketplace shall consider all of the written submissions and oral submissions received in the rule-making proceeding or a memorandum summarizing such oral submissions and the fiscal impact statement issued in the rule-making proceeding.

3. The Marketplace may use its own experience, specialized knowledge, and judgment in the rule-making process.

**F. Variance Between Adopted Rule, Policy, or Procedure and Published Notice of a Proposed Rule, Policy, or Procedure.**

1. The Marketplace shall not adopt a rule, policy, or procedure that differs from the rule, policy, or procedure proposed in the published notice of the intended rule-making on which the rule, policy, or procedure is based unless:

a. The final rule, policy, or procedure is in character with the original scheme and was a logical outgrowth of the notice and comments stemming from the proposed rule, policy, or procedure; or

b. The notice fairly apprised interested persons of the subject and the issues that would be considered so that those persons had an opportunity to comment.

2. In determining whether the final rule, policy, or procedure is in character with the original scheme and was a logical outgrowth of the notice and comments, and that the notice of intended rule-making provided fair warning that the outcome of that rule-making proceeding could be the rule, policy, or procedure in question, the Marketplace must consider the extent to which the:

a. Persons who will be affected by the rule, policy, or procedure should have understood that the rule-making proceeding on which it is based could affect their interests;

b. Subject matter of the rule, policy, or procedure or issues determined by the rule, policy, or procedure are different from the subject matter or issues contained in the notice of intended rule-making; and

c. Effects of the rule, policy, or procedure differ from the effects of the

proposed rule, policy, or procedure contained in the notice of intended rule-making.

**G. Concise Statement of Reasons.**

1. When requested by an interested person, either prior to the adoption of a proposed rule, policy, or procedure or within thirty (30) days after its adoption, the Marketplace shall issue a concise statement of the principal reasons for and against its adoption, amendment, or repeal, incorporating therein its reasons for overruling the considerations urged against its adoption, amendment, or repeal. Requests for such a statement must be in writing and be delivered to the employee identified by the Marketplace as having authority to accept the request. The request should indicate whether the statement is sought for all or only a specified part of a rule, policy, or procedure. A request will be considered to have been submitted on the date on which it is received by the authorized employee of the Marketplace.

2. The concise statement of reasons must contain:

a. The Marketplace's reasons for adopting the rule, policy, or procedure;

b. An indication of any change between the text of the proposed rule, policy, or procedure and the text of the rule, policy, or procedure as finally adopted, with explanations for any such change; and

c. The principal reasons urged in the rule-making procedure for and against the rule, policy, or procedure and the Marketplace's reasons for overruling the arguments made against the rule, policy, or procedure.

**H. Fiscal Impact on Small Businesses.**

1. Before submitting a proposed rule, policy, or procedure for adoption, amendment, or repeal, the Marketplace shall determine whether the proposed rule, policy, or procedure affects small businesses, unless the rule, policy or procedure is:

a. Adopted on an emergency basis;

b. Is federally mandated; or

c. Substantially codifies existing state or federal law.

2. The Marketplace shall examine whether a means exists to make the rule, policy, or procedure less costly for small businesses without compromising the objective of the rule, policy, or procedure.

3. If the proposed rule, policy, or procedure affects small businesses, the agency shall prepare an economic impact statement before undertaking the process of adopting a rule, policy, or procedure or amending or repealing an existing rule, policy, or procedure.

4. The Marketplace shall prepare an economic impact statement that sets forth the following:

a. The type or types of small businesses that will be directly affected by the proposed rule, policy, or procedure and bear the cost of the proposed rule, policy, or procedure or directly benefit from the proposed rule, policy, or procedure;

b. A description of how small businesses will be adversely affected by the rule, policy, or procedure;

c. A reasonable determination of the dollar amounts the proposed rule, policy, or procedure will cost small businesses in terms of fees, administrative penalties, reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance;

d. A reasonable determination of the dollar amounts of the costs to the Marketplace of implementing the proposed rule, policy, or procedure as well as the financial benefit to the Marketplace of implementing the proposed rule, policy, or procedure;

e. Whether there are alternative means that exist for accomplishing the objectives of the proposed rule, policy, or procedure that might be less burdensome to small businesses and why such alternatives are not being proposed; and

f. A comparison of the proposed rule, policy, or procedure with federal and state counterparts.

5. The Marketplace shall submit the economic impact statement and the proposed rule, policy, or procedure to the Director of the Arkansas Economic Development Commission.

6. Within ten (10) business days of the receipt of the economic impact statement and the proposed rule, policy, or procedure the Director of the Arkansas Economic Development Commission shall provide detailed information in writing to the agency regarding whether, in the reasoned opinion of the director, the agency has satisfactorily completed the economic impact statement and whether the agency has taken sufficient measures to balance the objectives of the proposed rule, policy, or procedure with the interests of the affected small businesses. In performing these duties, the Director of the Arkansas Economic Development Commission may elicit views and information from, and shall serve as the point of contact for, small business organizations and associations, state and federal agencies, and other parties who have comments, objections, or opinions concerning the proposed rule, policy, or procedure.

7. The Director of the Arkansas Economic Development Commission shall send the proposed rule, policy, or procedure to the members of the Regulatory Review Committee in any manner he or she considers reasonable and may set a deadline for the receipt of responses from members of the committee. The Regulatory Review Committee assists the Director of the Arkansas Economic Development Commission in the review of a proposed rule, policy, or procedure and are appointed by the Director of the Arkansas Economic Development

**Commission.**

8. If appropriate, the Director of the Arkansas Economic Development Commission shall convey the communications with the Regulatory Review Committee to the Marketplace.

9. In addition to commenting upon a proposed rule, policy, or procedure, the Director of the Arkansas Economic Development Commission may review existing rules, policies, or procedure and make recommendations to the Marketplace to amend rules, policies, or procedures that may have an unduly negative impact on small businesses.

10. Upon receiving the information described in this section's subsections six (6) through nine (9) from the Director of the Arkansas Economic Development Commission, the Marketplace shall promptly consider the information.

11. If the Marketplace determines that no action shall be taken in response to the information received from the Director of the Arkansas Economic Development Commission the Marketplace may respond in writing to the Director of the Arkansas Economic Development Commission and explain its reasons for this determination.

12. If the Marketplace determines that an amendment of a proposed rule, policy, or procedure or adoption or repeal of an existing rule, policy, or procedure is warranted, the agency shall indicate this in its response to the Director of the Arkansas Economic Development Commission.

13. Upon completing the requirements of subsections one (1) through twelve (12) of this section, the Marketplace may initiate the process for the adoption of a rule, policy, or procedure.

14. A "rule, policy, or procedure" means a statement of general applicability and future effect that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice of the Marketplace and includes, but is not limited to, the amendment or repeal of a prior rule, policy or procedure.

15. A "rule, policy, or procedure" does not mean:

a. A statement concerning the internal management of the Marketplace and statements that do not affect the private rights or procedures available to the public; or

b. An Intra-agency memoranda.

16. "Small business" means a for-profit enterprise consisting of no more than one hundred (100) employees regardless of whether the employees are full-time or part-time employees.

**I. Contents.**

The Marketplace shall cause its rules, policies, and procedures to be published and made

available to interested persons on its website. The publication must include:

1. The text of the final rule, policy, or procedure; and
2. The proposed effective date of the final rule, policy, or procedure.

**J. Incorporation by Reference.**

1. By reference in a rule, policy, or procedure, the Marketplace may incorporate all or part of a code, standard, rule, or other matter if the Marketplace finds that copying the matter into the Marketplace's rule, policy, or procedure would be unduly cumbersome, expensive, or otherwise inexpedient.

2. The reference in the Marketplace rule, policy, or procedure shall fully and precisely identify the incorporated matter by title, citation, date, and edition, if any; briefly indicate the precise subject and general contents of the incorporated matter; and state that the rule, policy, or procedure does not include any later amendments or editions of the incorporated matter.

3. The Marketplace may incorporate such a matter by reference in a proposed or adopted rule, policy, or procedure only if the Marketplace makes copies of the incorporated matter readily available to the public. The Marketplace must retain a copy of materials incorporated by reference in a rule, policy, or procedure of the Marketplace.

**K. Filing.**

1. After the Marketplace formally adopts a new rule, policy, or procedure; amends a current rule, policy, or procedure; or repeals an existing rule, policy, or procedure it shall file final copies of the rule, policy, or procedure and a statement of financial impact for the rule, policy, or procedure with the Arkansas Health Insurance Marketplace Legislative Oversight Committee, the Secretary of State, the Arkansas State Library, and Bureau of Legislative Research, or as otherwise provided by Ark. Code § 23-61-803.

2. A final rule, policy, or procedure shall not be filed until after the thirty-day public comment period has expired.

3. The financial impact statement shall be prepared as directed under Ark. Code § 23-61-803.

4. Proof of filing a copy of a final rule, policy, or procedure with the Arkansas Health Insurance Marketplace Legislative Oversight Committee, the Secretary of State, the Arkansas State Library, and Bureau of Legislative Research, will be kept in a file maintained by the Marketplace.

5. Notice of the rule, policy, or procedure change will be posted on the Marketplace's website.

**L. Notice of Final Rule, Policy, or Procedure.**

1. After the expiration of the thirty-day public comment period and before the effective date of the rule, policy, or procedure the Marketplace shall take appropriate measures to make the final rule, policy, or procedure known to the persons who may be affected by the rule, policy, or procedure.

2. Appropriate measures shall include without limitation the posting of the following information on the Marketplace's website:

a. The final rule, policy, or procedure;

b. Copies of all written comments submitted to the Marketplace regarding the rule, policy, or procedure;

c. A summary of all written and oral comments submitted to the Marketplace regarding the rule, policy, or procedure and the Marketplace's response to those comments; and

d. The proposed effective date of the final rule, policy, or procedure.

**M. Effective Date.**

The rule, policy, or procedure will be effective thirty (30) days after the filing of the final rule, policy, or procedure unless a later date is specified by law or in the rule, policy, or procedure itself.

**V. EMERGENCY RULE-MAKING**

**A. Imminent Peril.**

1. If the Marketplace finds imminent peril to the public health, safety, or welfare or compliance with federal laws or regulations requires adoption of a rule, policy, or procedure, upon less than thirty (30) days notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it may choose, to adopt an emergency rule, policy, or procedure.

2. The emergency rule, policy, or procedure may be effective for no longer than one hundred twenty (120) days.

**B. Filing.**

1. The emergency rule, policy, or procedure shall be filed with the Arkansas Health Insurance Marketplace Legislative Oversight Committee, the Secretary of State, the Arkansas State Library, and Bureau of Legislative Research.

2. The Marketplace will file with the rule, policy, or procedure its written findings justifying the determination that emergency rule-making is appropriate.

3. Proof of filing a copy of an emergency rule, policy, or procedure with the Arkansas Health Insurance Marketplace Legislative Oversight Committee, the Secretary of State, the Arkansas State Library, and Bureau of Legislative Research, will be kept in a file maintained by the Marketplace.

**C. Notice.**

1. The emergency rule, policy, or procedure shall be posted on the Marketplace's website.

2. The Marketplace shall take appropriate measures to make an emergency rule, policy, or procedure known to persons who may be affected by the emergency rule, policy, or procedure.

**D. Effective Date.**

The emergency rule, policy, or procedure will be effective immediately upon filing or at a stated time less than thirty (30) days after filing if the Marketplace finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare.

**E. Successive Emergency Rule, Policy, or Procedure.**

If, after the expiration of the effective period of an emergency rule, policy, or procedure the Marketplace wishes to adopt a successive emergency rule, policy, or procedure that is identical or substantially similar to the expired emergency rule, policy, or procedure the Marketplace shall not adopt the successive emergency rule, policy, or procedure earlier than thirty (30) days after the expiration of the emergency rule, policy, or procedure.

# **BYLAWS**

**State of Arkansas**  
**Bylaws - Domestic Nonprofit**  
**Arkansas Health Insurance Marketplace**

**Article 1. Office and Registered Agent**

**Section 1.01. Principal Office.**

The principal office of the Arkansas Health Insurance Marketplace shall be located at

\_\_\_\_\_.

**Section 1.02. Registered Office and Agent.**

The Arkansas Health Insurance Marketplace (hereinafter referred to as the "Marketplace") shall have and continuously maintain a registered office and registered agent in the State of Arkansas. The registered agent shall be an individual resident of the state.

**Article 2. Operating Rules**

**Section 2.01. Incorporation by Reference/Practices and Procedures.**

The Marketplace shall operate according to the Arkansas Health Insurance Marketplace Operating Rules of Practice and Procedure (hereinafter referred to as the "Operating Rules"). The Operating Rules are attached hereto and incorporated by reference.

**Article 3. Board of Directors**

**Section 3.01. Number of Members.**

The Board of Directors of the Marketplace (hereinafter referred to as the "Board") shall

consist of eleven (11) members.

**Section 3.02. Board Appointments.**

The members shall be appointed as follows:

- a. Three (3) members by the Governor of the State of Arkansas;
- b. Three (3) members by the Speaker of the Arkansas House of Representatives; and
- c. Three (3) members by the President Pro Tempore of the Arkansas Senate.

The Governor shall appoint one (1) member who is a representative of insurance agents or brokers licensed to sell health insurance in Arkansas and two (2) members who are consumer representatives.

The President Pro Tempore of the Senate shall appoint one (1) member who is a representative of a health insurer and one (1) member who is a representative of small employers.

The Speaker of the House shall appoint one (1) member who is a representative of a health insurer and one (1) member who is licensed by a health-related profession in Arkansas.

**Section 3.03. Qualifications of Board Members.**

The appointing authorities shall ensure that a majority of the members of the Board have relevant experience in:

- a. Health benefits administration;
- b. Healthcare finance;
- c. Health plan purchasing;

- d. Healthcare delivery system administration; or
- e. Public health or health policy issues related to the small group and individual markets and the uninsured.

**Section 3.04. Terms of Appointed Board Members.**

Of the initial appointees to the Board by the Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives, the appointing authority shall designate one (1) appointee to serve a term of four (4) years; one (1) appointee to serve a term of six (6) years; and one (1) appointee to serve a term of eight (8) years. All succeeding appointees to the Commission shall be appointed for a term of six (6) years.

**Section 3.05. Member of the Board by Virtue of State Office.**

The following public officials shall serve as members:

- a. The Insurance Commissioner or his or her designee; and
- b. The Director of the Department of Human Services or his or her designee.

**Section 3.06. Vacancy, Resignation, and Removal.**

The Board shall address the resignation or removal of a member of the Board and a vacancy as directed under the Operating Rules.

**Section 3.07. Compensation and Indemnification.**

The compensation and indemnification of a member of the Board shall be established as provided in the Operating Rules.

**Section 3.08. Powers.**

The Board shall have all powers granted to the Board and a Domestic Nonprofit Corporation under applicable law. The Board shall also have all the powers vested in it by the Articles of Incorporation and Operating Rules.

**Section 3.09. Committees.**

The Board shall form committees as established under the Operating Rules.

**Section 3.10. Conflicts of Interest.**

The Board shall determine whether a member of the Board has an interest that conflicts with the interests of the Marketplace under the Operating Rules.

**Article 4. Meetings**

**Section 4.01. Call, Notice, Quorum, and Voting.**

The Board shall call a regular or special meeting, give notice of a regular or special meeting, determine whether there is a quorum at a regular or special meeting, and use the voting procedures as directed under the Operating Rules.

**Section 4.02. Rules of Order.**

The Board shall use Robert's Rules of Order and any other rules of order required under the Operating Rules.

## **Article 5. Rule-Making**

### **Section 5.01. Rules, Policies, and Procedures.**

The Marketplace may promulgate rules, policies, and procedures, including emergency rules, policies, and procedures, as directed under the Operating Rules.

## **Article 6. Officers**

### **Section 6.01. Election, Term, and Duties.**

The Board shall elect a Chair, Vice-Chair, Secretary/Treasurer, and other officers to serve terms in office and perform certain duties as directed under the Operating Rules.

## **Article 7. Members**

### **Section 7.01. Members.**

The Marketplace shall not have members.

## **Article 8. Fiscal Year**

### **Section 8.01. Fiscal Year.**

The Marketplace's fiscal year shall be July 1 through June 30.

## **Article 9. Procedure for Amending the Bylaws**

### **Section 9.01. Amendments to Bylaws.**

The Bylaws may be amended or new Bylaws adopted upon the affirmative vote by a majority of the members of the Board present at a special or regular meeting at which a quorum of the members of the Board are present.

**Section 9.02. Amendment to Operating Rules and Incorporation in the Bylaws.**

An amendment to the Operating Rules by the Marketplace adopting a new rule, policy, or procedure or amending or repealing an existing rule, policy, or procedure is incorporated into the Bylaws upon its effective date. A vote by the Board is not required to incorporate the amendment to the Operating Rules into the Bylaws when the amendment is made under applicable law and rules.

**Article 10. Dissolution**

**Section 10.01. Dissolution.**

The Marketplace may be dissolved and its assets distributed under the Arkansas Nonprofit Corporation Act of 1993, Ark. Code § 4-33-101 et seq.