

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Health

Department Office of Administration

Contact Laura Shue E-mail laura.shue@arkansas.gov Phone 501-661-0297

Statutory Authority for Promulgating Rules Ark. Code Ann. § 25-15-206, § 25-15-215

Rule Title: Declaratory Orders

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published 06/29/2023

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Reviewed by Legislative Council 10/20/2023

Adopted by State Agency 01/26/2023

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Laura Shue laura.shue@arkansas.gov 11/1/2023
Contact Person E-mail Address Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Laura K. Shue
Signature

501-661-2297 laura.shue@arkansas.gov
Phone Number E-mail Address

General Counsel
Title

11/1/2023
Date

ARKANSAS STATE BOARD OF HEALTH



RULES FOR DECLARATORY ORDERS

**Promulgated Under the Authority of
Arkansas Code Annotated §§ 25-15-206 and 25-15-215**

**Renee Mallory, RN, BSN,
Secretary of Health**

**Jennifer Dillaha, MD
Director and State Health Officer**

Effective November 11, 2023

100. AUTHORITY AND DEFINITIONS

101. PURPOSE AND AUTHORITY

- (a) The Department of Health is tasked with adopting rules for declaratory orders under Ark. Code Ann. §25-15-206, and may use model rules under §25-15-215.

102. DEFINITION

- (a) “Declaratory Order” means a manner of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority.

200. DECLARATORY ORDERS

201. PURPOSE AND USE OF DECLARATORY ORDERS

- (a) A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner’s particular circumstances.
- (b) A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency.
- (c) A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner’s interests.

202. FILING A PETITION FOR DECLARATORY ORDERS

- (a) The process to obtain a declaratory order is begun by filing with Office of General Counsel, Department of Health, a petition that provides the following information:
 - (1) The name, address, telephone number, and facsimile number of the petitioner;
 - (2) The name, address, telephone number, and facsimile number of the attorney of the petitioner;
 - (3) The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory order is sought;
 - (4) A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner’s particular set of circumstances, and the question or issue on which petitioner seeks a declaratory order;
 - (5) The signature of the petitioner or petitioner’s attorney;
 - (6) The date; and
 - (7) Request for a hearing, if desired.

203. DEPARTMENT DISPOSITION

- (a) The Department may hold a hearing to consider a petition for declaratory order.
- (b) If a hearing is held, it shall be conducted in accordance with Ark. Code Ann. § 25-15-208 and § 25-15-213, and the Department's rules for adjudicatory hearings.
- (c) The Department may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts.
- (d) Within ninety (90) days of the filing of the petition, the Department will render a final order denying the petition or issuing a declaratory order.

CERTIFICATION

This will certify that the foregoing revisions to the Rules for Declaratory Orders were adopted by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas, on the 26th of January, 2023.

A handwritten signature in black ink that reads "Jennifer Dillaha, MD". The signature is written in a cursive style and is positioned above a horizontal line.

Jennifer Dillaha, MD
Secretary of Arkansas State Board of Health
Director of the Arkansas Department of Health