

ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State

John Thurston

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Health

Department Center for Health Protection, Infectious Disease Branch

Contact Laura Shue E-mail Laura.Shue@arkansas.gov Phone 501-661-2155

Statutory Authority for Promulgating Rules §20-7-109, and §20-15-701 et seq.

Rule Title: Rules Pertaining to Communicable Disease- Tuberculosis

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

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

09/07/19

10/08/19

01/15/20

08/01/19

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

Laura Shue

Laura.Shue@arkansas.gov

1/17/20

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.)


Signature

501-661-2155

Laura.Shue@arkansas.gov

Phone Number

E-mail Address

General Counsel

Title

1/17/19

Date

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health

DIVISION Center for Health Protection

PERSON COMPLETING THIS STATEMENT Tiffany A. Vance, Branch Chief

TELEPHONE NO. 501-661-2155 FAX NO. _____ EMAIL: tiffany.vance@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Communicable Disease- Tuberculosis

1. Does this proposed, amended, or repealed rule have a financial impact? it will decrease costs
Yes _____ No X
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 _____ X No _____

If an agency is proposing a more costly rule, please state the following:

- (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 more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
 - (d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.
5. 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? There is no cost.

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?
The rule will save healthcare institutions, state government, and county government millions of dollars in Tuberculosis testing materials, supplies and time.

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, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and 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 X _____

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.

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Classification Number:

Name of Agency:

Arkansas Department of Health

Division/Department/Office:

Center for Health Protection, Infectious Disease Branch

Contact Person:

Laura Shue

Telephone:

501-661-2155

Statutory Authority for Promulgating Rules:

§ 20-7-109 et seq., § 20-15-701 et seq

Title of Rule:

Rules Pertaining to Communicable Disease- Tuberculosis

Rule Status	Date Adopted by Agency	Effective Date
Amended	08/01/2019	<input checked="" type="radio"/> 10 Days After Filing
<small>(Use drop down to select different status)</small>	<small>MM/DD/YYYY</small>	<input type="radio"/> Other: _____ <small>(if other, specify date)</small>

☐

Rule above is proposed and will be replaced by final version

☒

Financial and/or Fiscal Impact Statement Attached

Certification of Authorized Officer

I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.

Signature: John K. Sauer Date: 01/17/20

Title: General Counsel

ARKANSAS STATE BOARD OF HEALTH

RULES PERTAINING TO Communicable Disease -- Tuberculosis



Promulgated Under the Authority of Ark. Code Ann.

§20-7-109 et seq.,

§20-15-701 et seq.

Effective

January 27, 2020

Arkansas Department of Health

Little Rock, Arkansas

Nathaniel Smith, MD, MPH Secretary of Health

RULES PERTAINING TO THE CONTROL OF COMMUNICABLE DISEASES - TUBERCULOSIS

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SECTION I. AUTHORITY.

The following Rules and subsequent amendments are hereby adopted pursuant to the authority conferred by Ark. Code Ann. § 20-15-701 et seq. and Ark. Code Ann. § 20-7-109 et seq.

SECTION II. PURPOSE.

The purpose of the Rules Pertaining to the Control of Communicable Diseases-Tuberculosis is to provide for the prevention and control of tuberculosis and to protect the public health, welfare, and safety of the citizens of Arkansas.

SECTION III. DEFINITIONS.

- A. "Certificate of Health" means a certificate issued by the Department verifying that the holder has complied with the relevant diagnostic screening, or treatment procedures prescribed or directed by the Communicable Disease Rules and Regulations and/or the Arkansas Tuberculosis Control Manual.
- B. "Correctional facility" means any state prison or jail, detention center, or other similar facility wherein persons are incarcerated or held for correctional purposes.
- C. "Department" means Arkansas Department of Health.
- D. "Shelter facility" means any shelter for the homeless or disadvantaged, shelter for battered women, or other similar facility where persons are routinely housed for

fourteen or more days.

- E. "Hospital" means the same as defined by Ark. Code Ann. § 20-9-201.
- F. "Long-term care facility" means the same as defined by Ark. Code Ann. § 20-10-101.
- G. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, agency, political subdivision of this state, of any other state, or political subdivision or agency thereof.
- H. "Tuberculosis prevention" means following the recommendations of the Department regarding treatment for prevention of tuberculosis.
- I. "Related medical facility" or "Related medical service" means a facility or service other than a hospital, including but not limited to rehabilitation hospitals, psychiatric hospitals, Human Development Centers, alcohol/drug abuse inpatient and outpatient treatment centers, Arkansas State Veterans Home, Veteran's Hospital Domiciliary, hospices, renal dialysis units, community health centers, community health clinics serving populations with a high prevalence for tuberculosis infection, or other related medical facilities or services.
- J. "Tuberculosis manual" means the manual of policies and procedures developed by the Department which includes guidelines for specific definitions of "tuberculosis screening" for certain groups and the prevention, control and treatment of tuberculosis.
- K. "Tuberculosis screening" means (1) in the case of a person tested for the first time or one who has not experienced a positive test in the past- an intra-dermal tuberculin skin test or Interferon-Gamma Release Assays (IGRAs) blood test; or (2) in the case of a person who has experienced a positive test in the past and/or who tests positive- a chest radiograph conducted by the Department or one interpreted by a trained radiologist or chest clinician- unless one has been performed within the past three months; or (3) such other screening as prescribed, directed or recommended by an employee or agent of the Department.

SECTION IV. GENERAL REQUIREMENTS.

A. Penalty.

Any person who is found guilty of a violation of any of the provisions of these shall be guilty of a violation of Ark. Code Ann. § 20-7-101.

B. Reporting Requirements.

1. It shall be the duty of every physician, nurse practitioner, nurse, or health care worker to report to the Department in addition to the requirements set forth in other sections of these rules the following information concerning tuberculosis:
 - a) Acid fast bacilli in smear or M. tuberculosis in culture
 - b) Other significant evidence, pending bacteriological proof
 - (1) Chest X-ray shadows suggestive of Tuberculosis (apical infiltrate,

- cavity, etc.)
- (2) Extra-pulmonary Tuberculosis (meningeal, bone, kidney, other)
- (3) Primary pulmonary tuberculosis cases showing parenchymal infiltration or hilar node enlargement or pleural effusion.

SECTION V. HOSPITALS.

Hospitals shall be responsible for compliance with these Rules as well as Board of Health Rules for Hospitals and Related Institutions in Arkansas.

- A. Each healthcare worker (hospital employee, health worker, medical staff member (physician), etc.) who has contact with hospital patients shall receive baseline tuberculosis screening and tuberculosis prevention information (See Section III, Definitions). No annual follow-up testing requirements are necessary. However, the Center for Disease Control guidelines must be followed on symptom screenings and tuberculosis education.
- B. Each hospital shall adopt and enforce a policy which ensures that tuberculosis symptom screening and tuberculosis prevention (See Section III, Definitions) is conducted for all employees, health workers, and medical staff (physicians) who have contact with patients.

SECTION VI. LONG TERM CARE FACILITIES.

Long-term care facilities shall be responsible for compliance with these Rules as well as the Rules governing Long-Term Care Facilities issued by the Arkansas Department of Human Services.

Each healthcare worker (employee, health worker, medical staff member (physician), etc.) of any long term care facility who has contact with long term care patients or residents shall receive baseline tuberculosis screening and tuberculosis prevention information (See Section III, Definitions). No annual follow-up testing requirements are necessary. However, the Center for Disease Control guidelines must be followed on symptom screenings and tuberculosis education.

SECTION VII. CORRECTIONAL FACILITIES.

- A. Correctional facilities, regardless of inmate capacity, shall ensure that:
 - 1. Each employee, worker, parole/probation officer, or other staff member of the facility who has contact with inmates or detainees receives tuberculosis screening and tuberculosis prevention information (See Section III, Definitions); and
 - 2. Prior to employment each employee, worker, parole/probation officer, or other staff member of the facility who has contact with inmates or detainees shall receive baseline tuberculosis screening and shall obtain a certificate of health or documented results of

- tuberculosis screening as outlined in the Arkansas Tuberculosis Control Manual. No annual follow-up testing requirements are necessary and should be substituted with a symptom screening and tuberculosis prevention education.
3. Each inmate residing in any correctional facility for more than 14 days shall receive baseline tuberculosis screening and tuberculosis prevention information. No follow-up testing is required, but symptom screening of positive inmates and tuberculosis education should be provided.
- B. Jails and detention centers housing fifty or more persons shall meet the following requirement: Each inmate/detainee of a jail or detention center who is expected to be incarcerated for 14 days or more will receive tuberculosis screening and tuberculosis prevention information (see Section III Definitions).
- C. Other correctional facilities shall meet the following requirements:
1. Each inmate or detainee of a correctional facility shall receive tuberculosis screening and tuberculosis prevention information (See Section III, Definitions).
 2. The person having responsibility for the management of a correctional facility shall be responsible for compliance with these Rules. Each correctional facility shall be responsible for compliance with these Rules. Each correctional facility shall designate an appropriately trained infection control officer who shall be responsible for operating a tuberculosis prevention and control program in the institution. Multi-institutional systems shall have a qualified coordinator as well as an official at each unit to oversee tuberculosis-control activities throughout the system. The correctional facility shall have written procedures outlining the responsibilities of each official, including a copy of each official's job performance plan. These procedures shall include provisions for (1) surveillance, (2) containment, and (3) assessment.
 - a. Surveillance shall include identification and reporting to the Department of all tuberculin reactors equal to or greater than 10 millimeters on inmates or a positive IGRA blood test. The Department will be responsible for evaluation and recommendation of appropriate therapy.
 - b. Appropriate containment procedures shall be developed to reduce the chance of transmission of tuberculosis.
 - c. Appropriate diagnostic, treatment, prevention, and laboratory services shall be available. Environmental factors conducive to the spread of tuberculosis, such as poor ventilation, shall be corrected. Persons undergoing treatment or preventive therapy shall be carefully monitored for compliance and to detect drug toxicity to ensure that the recommended course of treatment is completed. The infection control officer shall notify the Department upon discharging any inmate who is receiving medication for tuberculosis and coordinate with Department officials to ensure appropriate follow-up of paroled inmates for completion of treatment.
 - d. Procedures shall be developed to ensure that persons in charge of a

correctional facility are aware of the responsibility for the surveillance and containment activities within the institution.

- e. Questions concerning surveillance, containment or assessment and treatment shall be sought by reference to the Tuberculosis Manual of the Arkansas Department of Health or telephone consultation with the Tuberculosis Program Medical Director or designee.
 - f. The person in charge of the correctional facility will cooperate with the Department Tuberculosis Program in developing and updating policies, procedures, and record systems for tuberculosis control. The Department will provide epidemiologic and management assistance to correctional facilities, including on-site consultation and periodic reevaluation. Where appropriate, correctional facilities shall cooperate with the Department and develop programs of in-service training for correctional facility staff (e.g., to perform, read, and record tuberculin skin tests; identify signs and symptoms of tuberculosis; initiate and observe therapy; monitor for side effects; collect diagnostic specimens; educate inmates regarding tuberculosis; maintain record systems). The correctional facility will work with the Department regarding the tuberculin testing of nonincarcerated contacts of persons with active tuberculosis identified in these facilities.
 - g. All anti-tuberculosis medication within correctional facilities shall be administered under direct observation by correctional facility staff. Directly observing the swallowing of medication is essential to prevent the development of strains of tuberculosis that are resistant to current effective medications.
 - h. Correctional facilities shall work with Department staff to arrange continuing therapy for inmates when released while receiving tuberculosis treatment or preventive therapy. Registries shall be maintained with updated medical information on all current tuberculosis cases including those in correctional facilities.
 - i. Correctional facilities shall work with the Department officials to develop and implement an HIV prevention program, to identify persons practicing high risk behaviors, to counsel such persons in an effort to reduce high- risk behaviors among inmates.
3. Prior to commencement of construction of any correctional facility the person(s) responsible for the control and operating of the facility shall furnish a statement that he/she has consulted with the Department concerning the architectural design concerning the feasibility of germicidal lights in appropriate areas.

SECTION VIII. SHELTER FACILITIES.

The person in charge of each shelter facility shall be responsible for compliance with these Rules.

- A. Each employee or other worker of a shelter facility who has regular contact with

residents or clients shall receive tuberculosis screening and tuberculosis prevention information (See Section III, Definitions).

- B. Prior to employment, each employee or other worker of a shelter facility who has regular contact with residents or clients shall obtain a certificate of health or documented results of tuberculosis screening as outlined in the Arkansas Tuberculosis Control Manual. No annual follow-up testing requirements are necessary and should be substituted with a symptom screening and tuberculosis prevention education.
- C. Each resident of a shelter facility who is likely to remain for a period of at least fourteen days shall, upon arrival, receive tuberculosis screening and tuberculosis prevention information (See Section III, Definitions).

SECTION IX. RELATED MEDICAL FACILITIES.

The person in charge of each facility shall be responsible for compliance with these Rules.

Each healthcare worker (employee, health worker, medical staff member (physician), etc.) who has contact with patients or clients shall receive baseline tuberculosis screening and tuberculosis prevention information (See Section III, Definitions). No annual follow-up testing requirements are necessary. However, the Center for Disease Control guidelines must be followed on symptom screenings and tuberculosis education.

SECTION X. CONTROL, PREVENTION AND PROCEDURES FOR ISOLATION.

A. Involuntary Examinations.

1. When the state, county, or city health officer shall have reasonable grounds to believe that any person has tuberculosis in active state or in a communicable form and who will not voluntarily seek a medical examination or treatment, the health officer is authorized to cause the person to be apprehended and detained for the necessary tests and examinations, including an approved chest X-ray, sputum examination, and other approved laboratory tests to ascertain the presence of tuberculosis.
2. If active tuberculosis is found, it shall then be the duty of the health officer to make an investigation of the person to determine whether the conduct of the person is suitable for outpatient therapy or whether control of the case may require isolation.

B. Petition To Isolate Patient.

1. If the health officer finds that the circumstances are not suitable for proper isolation or contagion control of the case by any type of local quarantine and the person will not voluntarily seek medical treatment and is a source of danger to others, then the health officer shall petition the probate court of the county where the person is found to order the admission of the person to any state-owned and operated hospital or any other hospital that is equipped to treat tuberculosis under the conditions enumerated in Ark. Code Ann. § 20-15-707(a).
2. The health officer shall set forth in a petition a summary of the factual basis of

the determination that the circumstances are not suitable for proper contagion control of the case as an out-patient and that the person will not voluntarily seek medical treatment and is a source of danger to others.

C. Notice of Petition and Hearing.

1. Upon receiving the petition, the court shall fix a date for a hearing on the petition and shall cause notice of the petition, with the time and place for hearing to be served personally at least seven (7) days before the hearing, upon the person who is afflicted with tuberculosis and alleged to be dangerous to others.
2. During the time the petition is pending, the person shall be subject to the local quarantine or restrictions of his movements placed on him by the health officer for the protection of the public health.

D. Hearing.

The petition shall be heard in open court, and the respondent to the petition shall have the privilege of counsel of his own selection.

E. Commitment.

1. If upon hearing of the petition, the court finds that the circumstances are not suitable for proper isolation or contagion control of the case by any type of local quarantine and that the person will not voluntarily seek medical treatment and is a source of danger to others, the court shall order the commitment of the person to a hospital as petitioned for.
2. The superintendent of the institution to which the person is committed shall direct that the person be placed apart from others in a room with a properly installed and operational germicidal UV light and restrained from leaving the institution.

F. Observation of Rules Required.

1. A person who is committed to a hospital under the provisions of this subchapter shall observe all the rules of the hospital.
2. The superintendent of the institution may file a complaint in the municipal or justice of peace court against a person committed to the institution under the provisions of this subchapter who willfully violates the rules of the institution or who conducts himself in a disorderly manner. A person so charged shall have the legal procedural rights of a person charged with disorderly conduct.

G. Discharge.

1. The superintendent of the institution to which a person has been committed under this subchapter may discharge the person so committed upon signing and placing among the records of the institution a statement that the person has obeyed the rules of the institution and that for the reasons set forth in the statement, in his judgment the person may be discharged without danger to the health and life of others.
2. The superintendent of the institution shall report each discharge with a full statement of reasons therefore at once to the Director of the Department, to the

county health officer of the county where the person was committed, and to the clerk of the court from which the person was committed.

H. Violations of Commitment - Penalties.

1. A person committed to an institution who is found guilty of violating the rules of the institution or of conducting himself in a disorderly manner may be confined for a period not to exceed six (6) months in any place where persons convicted of disorderly conduct may be confined.
2. Any person committed to an institution pursuant to this subchapter, who shall leave or attempt to leave the institution without being properly discharged by the superintendent of the institution or his authorized agent, shall be guilty of a misdemeanor and upon conviction shall be imprisoned for a period of not less than six (6) months nor more than one (1) year.
3. Any person confined or imprisoned pursuant to this section shall be kept separate and apart from the other inmates of the place of confinement. Upon completion of the period of confinement, he shall be returned to the hospital or sanatorium where originally committed.
4. Any person confined or imprisoned pursuant to the provisions of this section may be confined or imprisoned in the hospital where originally committed if facilities for confinement or imprisonment are available at the hospital.

SECTION XI. SEVERABILITY.

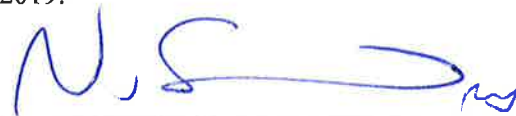
If any of the provisions of these rules and the application thereof to any person or circumstances is held invalid, such invalidation shall not affect other provisions or applications of these rules which can be given effect without the invalid provisions or applications, and to this end the provisions hereto are declared to be severable.

SECTION XII. REPEAL.

All rules and any parts of rules in conflict herewith are hereby repealed.

CERTIFICATION

I certify that the foregoing Rules Pertaining to the Control of Communicable Disease - Tuberculosis were adopted by the Arkansas State Board of Health at a regular session in Little Rock, Arkansas on this the 1st day of August, 2019.



Nathaniel Smith, MD, MPH
Secretary, Arkansas State Board of Health
Secretary, Arkansas Department of Health