

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
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Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

NOTICE of PUBLIC COMMENT PERIOD

The Arkansas Department of Health (ADH), Section of Health Facility Services (HFS) will hold a PUBLIC COMMENT PERIOD beginning May 6, 2024, through June 7, 2024, to allow interested persons an opportunity to comment on proposed revisions to the Rules for Home Caregiver Training in Arkansas promulgated pursuant to Ark. Code Ann. §20-77-2301 et seq. Proposed revisions, adding requirements for training pursuant to Act 70 of 2023, are available on the ADH website: <https://www.healthy.arkansas.gov/proposed-amendment-to-existing-rules> or are available for public inspection and copying at the Arkansas Department of Health, Section of Health Facilities Services, Freeway Medical Tower, 5800 West Tenth Street, Suite 400, Little Rock, Arkansas.

All comments must be received by 10:00 a.m. on June 7, 2024. All comments may be sent by e-mail to: paula.day@arkansas.gov or by regular mail to: HFS Rules Comments, 5800 W. 10th St., Ste. 400, Little Rock, AR 72204.

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

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 No

If no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. 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?

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?

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, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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

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.

**Cover Summary of Proposed Administrative Rules/Regulation
Arkansas Department of Health**

DIVISION	Center for Health Protection; Licensing and Regulation Branch; Health Facility Services Section
ADDRESS	5800 W. 10 th Street, Suite 400 Little Rock, AR 72204
CONTACT	Paula Day
PHONE NUMBER	501-661-2201
DATE	October 9, 2023

SHORT TITLE OF THIS RULE: *Rules for Home Caregiver Training in Arkansas*

1. Subject: Rule revisions for Acts 70
2. Amends existing rules
3. Authority: Ark. Code Ann. § 20-77-2301 *et seq.*
4. Purpose:
 - *To amend the aide training requirements to include Alzheimer's disease and dementia (Act 70)*
5. Changes as listed:
Section 3.B.(3) (iv.) - added training requirements for Alzheimer's disease and dementia for Personal Care Aides.
6. Financial impact: No financial impact.
7. Public Hearing: *N/A; Public comment period*
8. Proposed effective date: *June 1, 2024*

A strike-through copy of the proposed changes is attached.

RULES FOR HOME CAREGIVER TRAINING IN ARKANSAS



ARKANSAS DEPARTMENT OF HEALTH

Effective Date:

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

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

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SECTION 1. Authority.

These Rules and Regulations for Home Caregiver Training in Arkansas are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas in Act 1410 of 2013, Ark. Code Ann. § 20-77-2301 et seq.

SECTION 2. Definitions.

(a) As used in these Rules:

- (1) "Caregiver services" are services provided to an individual in the State of Arkansas to assist the recipient of the services in the activities of daily living, and the recipient of services is fifty (50) years of age or older at the time the services are provided;
- (2) "Compensation" means money or another type of property of value received by a provider of caregiver services in exchange for the services of the provider without regard to the source of payment of the money or other type of property;
- (3) "In-home services agency" means any partnership, association, corporation, or other organization, whether public or private, proprietary, or non-profit, that provides caregiver services for pay in a client's residence and is not otherwise licensed by the Department of Health as a home health agency, private care agency, or hospice agency.
- (4) "Successful completion" means completion of training in acceptable core competencies in the physical skills under§ 20-77-2303 and §3 of these Rules; and
- (5) "Trained In-Home Assistant" means an individual who has met the requirements of Ark. Code Ann. §§ 20-77-2301 et seq. and provides caregiver services.

SECTION 3. Training requirement.

- (a) A person who applies for employment to provide caregiver services in this state for compensation shall provide documentation to an in-home services agency of successful completion of training as a Trained In-Home Assistant under these Rules.
- (b) A person qualifies as a Trained In-Home Assistant under these Rules if the person:
 - (1) Is eighteen (18) years of age or older;
 - (2) Has not been convicted of a felony that would prevent the person from working in a long-term care facility under § 20-38-101 et seq. unless the conviction has been expunged or pardoned; and
 - (3) (A) Except as provided under Section 5 of these Rules, has successfully completed a caregiver training course addressing the following core competencies approved by the department including not less than forty (40) hours of training in:
 - (i) Body Functions;
 - (ii) Body mechanics and safety precautions;
 - (iii) Communication skills;
 - (iv) At least four (4) hours covering Alzheimer's diseases and other dementia, which shall include:
 - (A) Communication skills;
 - (B) Problem-solving with challenging behaviors;
 - (C) Assistance with daily living; and
 - (D) Explanation of Alzheimer's Disease and other dementia;
 - (v) Emergency situations, including recognition of conditions and proper procedures;
 - (vi) Household safety and fire prevention;
 - (vii) Infection control and prevention, including maintaining a safe and clean working environment;
 - (viii) Ethical considerations and state law regarding delegation of nursing tasks to unlicensed personnel;
 - (ix) Nutrition;
 - (x) At least sixteen (16) of the forty (40) required hours covering physical skills and competent demonstration of such skills for:
 - (A) Ambulation;

Rules for Home Caregiver Training in Arkansas

- (B) basic housekeeping procedures, including laundry skills;
- (C) bathing, shampooing, and shaving;
- (D) dressing and undressing
- (E) meal preparation and clean up;
- (F) oral hygiene;
- (G) range of motion;
- (H) toileting;
- (I) transfer techniques;
- (J) recordkeeping and documentation of activities;
- (K) role of caregiver in a healthcare team; and
- (L) nail and skin care.

SECTION 4. Certification of Training by Employer.

- (a) The training required under these rules may be certified by an employer if that employer maintains records regarding:
 - (1) The identification of the employee who received training;
 - (2) The topic for which the training was conducted; and
 - (3) The amount of time spent on training.

SECTION 5. Exemptions.

(a)

(1) A person is exempt from the training specifications in §3 of these Rules if the person has at least one (1) year of experience working in an institutional setting, including without limitation:

(i) Home health agency;

(ii) Hospital;

(iii) Hospice; or

(iv) Long-term care facility.

(2) (2) The experience required under §5(a) shall be verified by the person's employer during the experience.

(b) An individual may provide caregiver services without the training required by these Rules if the person is a:

(1) Certified nursing assistant;

(2) Licensed practical nurse;

(3) Parent, grandparent, child, grandchild, or sibling of the recipient of the services;

(4) Physician;

(5) Registered nurse;

(6) Service provider who does not receive compensation for his or her services;

(7) Licensed social worker;

(8) Court-appointed legal guardian of the recipient of the caregiver services; or

(9) A direct-care worker providing caregiver services to a participant in any program licensed, administered, or certified by the Department of Human Services.

CERTIFICATION

I hereby certify that the foregoing Rules for Home Caregiver Training in Arkansas were duly adopted by the Arkansas State Board of Health on the ____ day of _____, 2024.

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

RULES ~~AND REGULATIONS~~ FOR HOME
CAREGIVER
TRAINING IN ARKANSAS



ARKANSAS DEPARTMENT OF HEALTH

Effective Date:

Arkansas Department of Health
Renee Mallory, RN, BSN,
Secretary of Health

Jennifer Dillaha, MD
Director and State Health Officer

2014

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 - (5) Registered nurse;
 - (6) Service provider who does not receive compensation for his or her services;
 - (7) Licensed social worker;
 - (8) Court-appointed legal guardian of the recipient of the caregiver services; or
 - (9) A direct-care worker providing caregiver services to a participant in any program licensed, administered, or certified by the Department of Human Services.

CERTIFICATION

I hereby certify that the foregoing Rules ~~and Regulations~~ for Home Caregiver Training in Arkansas were duly adopted by the Arkansas State Board of Health on the ____ day of _____, [2024](#).

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