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WILLIAM H. TRICE III (1946-2014)

March 2, 2018

Ms. Donna K. Davis, Committee Staff
State of Arkansas
Bureau of Legislative Research
State Capitol Building, Room 315
Little Rock, AR 72201

**RE: My Client: Arkansas State Board of Dental Examiners
Amendment to Article XX- Prescribing**

Dear Ms. Davis:

Enclosed are the following:

1. Two copies of the Questionnaire and Financial Impact Statement.
2. Two copies of the Proposed Amendment to Article XX
3. Two copies of the Notice of Publication
4. Two copies of the Summary.
5. I am also emailing all of this to you at donna@arkleg.state.ar.us.

After the public hearing I will contact your office and let you know whether it was approved by the Board and request that you schedule this for review at your convenience by Legislative Council Rules and Regulations Committee. Please let me know when to appear.

Respectfully,



Kevin M. O'Dwyer,
Attorney for the Arkansas State Board of Dental Examiners
KMO/jab

Enclosures

cc: Donna Cobb, Executive Director, Arkansas State Board of Dental Examiners

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

DEPARTMENT/AGENCY Arkansas State Board of Dental Examiners
DIVISION _____
DIVISION DIRECTOR Donna Cobb, Executive Director
CONTACT PERSON Kevin M. O'Dwyer, Attorney
ADDRESS 211 S. Spring Street, Little rock AR 72201
PHONE NO. 501-372-4144 FAX NO. 501-372-7480 E-MAIL kodwyer@htolaw.com
NAME OF PRESENTER AT COMMITTEE MEETING Kevin M. O'Dwyer
PRESENTER E-MAIL kodwyer@htolaw.com

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

1. What is the short title of this rule? Article XX Prescribing

2. What is the subject of the proposed rule? To mandate Prescribers check the Prescription Drug Monitoring Program and to set limits for Opioid prescribing.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No X
If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes No X

If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?
Yes No X

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. §17-95-303(2) and Act 820 of 2017

7. What is the purpose of this proposed rule? Why is it necessary? To mandate use of the Prescription Drug Monitoring Drug Program and to set limits for Opioid prescribing.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b) www.dentalboard.arkansas.gov

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: May 11, 2018

Time: 8:30 a.m.

Offices of the Arkansas State Board of
Dental Examiners, 101 East Capitol

Place: Ave., Suite 111, Little Rock, AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
May 10, 2018

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
May 13, 2018

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. Attached. Proof of publication will be provided after it is received.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). See attached email.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. Arkansas State Dental Association

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas State Board of Dental Examiners

DIVISION _____

PERSON COMPLETING THIS STATEMENT Kevin M. O'Dwyer, Attorney

TELEPHONE 501-372-4144 **FAX** 501-372-7480 **EMAIL:** kodwyer@htolaw.com

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 An Amendment to Article XX to mandate Prescribers check the Prescription Drug Monitoring Program

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 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;
N/A

(b) The reason for adoption of the more costly rule;
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
N/A

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 N/A
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Next Fiscal Year

General Revenue N/A
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue N/A
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
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General Revenue N/A
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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

\$ N/A

\$ N/A

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

\$ N/A

\$ N/A

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.

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DIVISION _____
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PLEASE ANSWER ALL QUESTIONS COMPLETELY

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DIVISION _____

PERSON COMPLETING THIS STATEMENT Kevin M. O'Dwyer, Attorney

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(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

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Cash Funds _____
Special Revenue _____
Other (Identify) _____

Next Fiscal Year

General Revenue N/A
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

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Next Fiscal Year

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Yes No

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ARTICLE XX

PRESCRIBING

1. Pursuant to Act 820 of 2017, a prescriber who prescribes Schedule drugs shall be required by the Board to register with the Prescription Drug Monitoring Program and access patient information before writing a prescription for an opioid.
2. A practitioner who fails to access the Prescription Drug Monitoring Program as required is subject to disciplinary action by the Board.
3. PRESCRIBER REQUIREMENTS:
 - a. It is incumbent of dentist to prescribe sufficient but minimal opiate medications. Any prescription for a Scheduled II or III opiate shall not exceed the total maximum manufacturer's recommended daily dose for a total of 7 days administration (7 time the MRDD).
 - b. Patient record must be documented for need of any re-dosing.
 - c. Dentist shall check the information in the Prescription Drug Monitoring Program when prescribing:
 - i. An opioid from Schedule II or III for every time prescribing the medication to a patient; and
 - ii. A benzodiazepine medication for the first time prescribing the medication to a patient
 - d. Within the first two (2) years of being granted a license in the state, a prescriber shall obtain a minimum of three (3) hours of prescribing education approved by the board under this section shall include:
 - i. Options for online and in person programs; and
 - ii. Information on prescribing rules, regulations, and laws that apply to individuals who are licensed in Arkansas.
 - iii. Information and instructions on prescribing controlled substances, records keeping and maintain safe and professional boundaries.
 - e. Current license in the state have until December 31, 2019 to complete the minimum three (3) hours of prescribing education referenced in this article 3.d.

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To be published three times March 27th, April 3rd and April 10th, 2018, in the Daily Record

Bill to Donna Cobb, Executive Director
Arkansas State Board of Dental Examiners
101 E. Capitol, Ste. 111
Little Rock AR 72201
(501) 682-2085

Send proof of publication to:

Kevin M. O'Dwyer
Attorney for the Arkansas State Board of Dental Examiners
211 Spring Street
Little Rock, AR 72201
(501) 372-4144

NOTICE OF PUBLIC HEARING

In compliance with ACA 25-15-204, the Arkansas State Board of Dental Examiners gives notice that it will conduct a public hearing at 8:30 a.m. on the 11th day of May, 2018, at the offices of the Arkansas State Board of Dental Examiners, Main Street Mall, 6th and Main, Little Rock, Arkansas 72201. The public hearing will involve an Amendment to Article XX, mandating Prescribers check the Prescription Drug Monitoring Program.

All individuals desiring to attend said hearing may do so. All individuals desiring to address the Board should contact Ms. Donna Cobb, the Executive Director of the Arkansas State Board of Dental Examiners, (501) 682-2085. Individuals desiring a copy of the proposed amendment to Article VII, as referred to herein, may contact Donna Cobb, the Executive Director at the above number.

To be published three times March 27th, April 3rd and April 10th, 2018, in the Daily Record

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Arkansas State Board of Dental Examiners
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Summary

Pursuant to Act 820 of 2017, a prescriber who prescribes Schedule drugs shall be required by the Board to register with the Prescription Drug Monitoring Program and access patient information before writing a prescription for an opioid; and to set limits for Opioid Prescribing.

Summary

Pursuant to Act 820 of 2017, a prescriber who prescribes Schedule drugs shall be required by the Board to register with the Prescription Drug Monitoring Program and access patient information before writing a prescription for an opioid; and to set limits for Opioid Prescribing.