

ARKANSAS REGISTER



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SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

Transmittal Sheet

Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

For Office Use Only: Effective Date _____ Code Number 049.00.96-00

Name of Agency HEALTH SERVICES AGENCY

Department N/A

Contact Person Nancy Richardson or Orson Berry Phone 661-2509

Statutory Authority for Promulgating Rules Arkansas Code Ann. 20-8-101 et. seq.

	Date
Intended Effective Date	Legal Notice Published <u>April 28-30, 1996</u>
<input type="checkbox"/> Emergency	Final Date for Public Comment <u>May 29, 1996</u>
<input checked="" type="checkbox"/> 10 Days After Filing	Filed With Legislative Council <u>April 26, 1996</u>
<input type="checkbox"/> Other	Reviewed by Legislative Council <u>June 6, 1996</u> <u>June 21, 1996</u>
	Adopted by State Agency <u>May 29, 1996</u>

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.


Signature

(501) 661-2509
Phone Number

Director
Title

June 21, 1996
Date

ARKANSAS HEALTH SERVICES COMMISSION

FINANCIAL IMPACT STATEMENT

HSA REGULATION 002. Bylaws of the Health Services Commission

Contact Person: Nancy Richardson
Health Services Agency
Freeway Medical Tower
5800 West 10th Street, Suite 805
Little Rock, Arkansas 72204
Telephone: 661-2509

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BY _____

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?

Yes _____ No X

If parties who are, or may be, served out-of-state are served in-state then the State should save money by utilizing the less expensive in-state facility.

2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

3. If the purpose of this rule or regulation is to implement a federal rule or regulation is to implement a federal rule or regulation, please give the incremental cost of implementing the regulation.

N/A as this is not a federal regulation.

4. What is the total estimated cost by fiscal year to any party subject to proposed, amended, or repealed rule or regulation? N/A

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HSA Regulation 002. Bylaws of the Arkansas Health Services Commission/June 1996

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ARTICLE 1

Organization and Functions

Section 1. Name. The name of the entity is the Arkansas Health Services Commission, hereinafter referred to as the Commission.

Section 2. Address. The administrative offices for the Commission are located at Freeway Medical Tower, 5800 West 10th Street, Suite 805, Little Rock, Arkansas.

Section 3. Enabling Legislation. The Commission is authorized under Section 2 of Act 593 of 1987 as amended by Act 40 of the First Extraordinary Session, 1987.

Section 4. Committees. The Chairperson may establish and create from time to time such committees as shall be necessary to carry out the affairs and further the purposes of the Commission.

Section 5. Duties of the Commission:

- A. Evaluate the availability and adequacy of health services in the State.
- B. Designate those locales or areas of the State in which due to the requirements of the population or geography of the area, the health service needs of the population are underserved.
- C. May specify within locales or areas categories of health services which are underserved and overserved

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due to the composition or requirements of the population or the geography of the area.

- D. Develop policy and adopt criteria including time limitations for every review of an application to be followed by the agency in issuing a permit of approval ...
- E. May define certain underserved locales or areas or categories of services within underserved locales or areas to be exempt for specified periods of time from the permit of approval requirement.
- F. Review the recommendations of the Health Services Agency, hereinafter referred to as the Agency, concerning action on applications for permits of approval and endorse or reject same.
- G. May set application fees for permit of approval applications to be charged and collected by the Agency.
- H. Upon appeal by the applicant and/or affected party, the Commission, shall conduct hearings on permits of approval by the Agency within thirty (30) days of receipt of the notice of appeal. The Commission shall render its final decision within forty-five (45) days of the close of the hearing. Failure of the Commission to take final action within these time periods shall be considered a ratification of the agency decision on the permit of approval and shall constitute the final decision of

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the Commission from which an appeal to Circuit Court may be filed.

Section 6. Composition. The Commission shall consist of eight members appointed by the Governor and confirmed by the Senate. Pursuant to Act 593 the Commission shall have as members:

- A. a practicing physician
- B. a representative of the Department of Human Services
- C. a member of the Arkansas Hospital Association
- D. a member of the Arkansas Health Care Association
- E. a member of the Arkansas Chapter of the American Association of Retired Persons
- F. a member of the Arkansas Home Care Association
- G. a consumer knowledgeable in business health insurance
- H. a member of the Arkansas Association of Residential Care Facilities.

Section 7. Terms of Office. The Governor shall have the power to stagger the terms of the initial members so that two (2) members serve for one (1) year after appointment, three (3) members serve two (2) years after appointment and two (2) members serve for three (3) years after appointment. All subsequent appointments shall be for three (3) year terms.

Section 8. Resignation, Removal, and Disqualifications. Any Commission member may resign at any time by giving written notice to the Governor and to the Commission Chair.

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The Governor may remove a Commission member for good cause including: a) conduct constituting a criminal offense involving moral turpitude, b) gross dereliction of duty, or c) gross abuse of authority, or d) when a member is absent for two successive regular quarterly meetings without a satisfactory excuse provided to the Governor (Act 66 of 1961). At such time a member may no longer represent the group to which he/she was appointed, resignation should be tendered to the Governor and the Commission Chair.

Also, because all meetings are subject to the Freedom of Information laws, "any member participating in an illegal closed meeting is subject to dismissal by the Governor or by proper proceedings brought in a court of competent jurisdiction, "Act 417 of 1947."

Section 9. Vacancies. A vacancy may exist upon the death, resignation, removal, or disqualification of any member and shall be filled by the Governor. A person selected to fill a vacancy on the Commission shall hold the position for the duration of the unexpired term of his or her predecessor. A Commission member filling such a vacancy shall be eligible for subsequent appointment to a full term.

Section 10. Compensation. Commission members shall serve without pay but those members not employed by the State of Arkansas shall receive reimbursement in accordance with State law for expenses incurred for attendance at meetings of the Commission.

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ARTICLE II

Officers

Section 1. Number. Officers of the Commission shall be a Chair and a Vice Chair.

Section 2. Terms of Office. The terms of the Commission Chair and Vice Chair shall be for one year. Officers may succeed themselves.

Section 3. Chair. The Chair shall have general supervision and management of the affairs of the Commission subject to the control of the members. He or she shall chair all meetings of the members; and perform all duties incident to the office of the Chair and all such other duties as from time to time may be assigned by the members.

Section 4. Vice Chair. The Vice Chair shall in the absence or disability of the Chair perform the duties and exercise the powers of such office. The Vice Chair shall perform such other duties and have such other powers as the Chair or the members may from time to time prescribe.

ARTICLE III

Meetings of the Commission

Section 1. Place of Meetings. The annual meeting of the members shall be held on the third (3rd) Wednesday of May at the place therein determined by the Chair.

Section 2. Regular Meetings. The Commission shall meet at least quarterly and at such other times as necessary to carry out its duties. The Commission may provide for time,

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place and manner of calling its meetings.

Section 3. Open Meetings and Open Records. The Freedom of Information Act requires that "all meetings, formal or informal, special or regular, of all ... commissions ... shall be public meetings (Section 5). Executive sessions are permitted only for the purpose of considering employment, appointment, promotion, demotion, discipline, or resignation of any public officer or employee. With certain exceptions, all Agency records are open to inspection and copying (at actual cost) by any citizen during regular business hours.

Section 4. Special Meetings. Special meetings of the Commission may be required from time to time. Such meetings should be subject to call of the Chair, the Vice Chair, or three or more members. The call to a special meeting should state the location and time, and the subject matter to be covered at such meeting. The call to a special meeting should be provided to members at least 24 hours prior to the meeting and should be simultaneously announced to the news media and those who formally request notice from staff.

Section 5. Notice of Meetings. Formal notice of regular quarterly meetings should be communicated to members at least 10 working days prior to the meeting and additionally the news media and those who formally request notice from staff. The agenda for the meeting should be approved by the Chair and provided to the members, along with supporting materials, in sufficient time to permit review prior to a regular quarterly meeting.

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Section 6. Quorum and Manner of Action. A quorum shall be not less than five of the duly appointed members of the Commission. All actions of the Commission shall be decided by a simple majority of the members present and voting but no action may be taken without four votes for or against a motion with no proxy voting permitted.

Section 7. Written Minutes. The minutes of meetings shall be prepared and kept by Agency staff and written copies mailed to members.

ARTICLE IV

Committees of the Commission

Section 1. Committees. As a minimum the Commission should provide for two types of committees, standing committees and ad hoc committees. The Chair shall appoint all committees. Committees are as follows:

- B. Nominating Committee for the purpose of nominating officers.
- B. Ad hoc committee duties and powers shall be prescribed by the Chair.

ARTICLE V

Conflict of Interest

Section 1. Announcing a Conflict of Interest. No member of the Commission shall use such membership for purposes which are motivated by private gain, including gain for organizations or institutions with which the individual

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is associated in any capacity. Annually a disclosure statement shall be filed with the Agency listing all professional interests in the health field; any financial interest in the health industry; and any fiduciary interest held in a health institution, organization, or agency. There shall be a conflict of interest when the member or his/her organization or institution is the applicant or is a party to the adjudication process.

When a conflict arises for a member in the course of business of the Commission, the individual member should declare the conflict (See attached statement). Additionally, any member of the Commission who questions whether or not another member has a conflict of interest in the matter under discussion may ask for a determination by the Commission. If the Commission finds that a conflict exists, the affected member shall also follow the aforementioned procedure.

Section 2. Voting Abstention. Any member who declares a conflict of interest, or who is found to have a conflict should neither participate in debate nor vote on the issue in question. Whether the individual(s) with a conflict should absent themselves for any reason is a decision for the Commission to decide.

ARTICLE VI

Robert's Rules of Order

Section 1. Robert's Rules of Order. In all procedural matters, unless otherwise covered by these Bylaws, the latest

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edition of Robert's Rules of Order shall be followed.

ARTICLE VII

Amendments

Section 1. Bylaws of the Commission may be altered, amended or repealed by the affirmative vote of two-thirds (2/3rds) of those members present at any annual, regular quarterly, or special meeting of the members, provided that notice of the proposal to so alter, amend or repeal or to make such Bylaws be included in the notice of any such meeting.

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CONFLICT OF INTEREST STATEMENT

"Section 1. Announcing a Conflict of Interest. No member of the Commission shall use such membership for purposes which are motivated by private gain, including gain for organizations or institutions with which the individual is associated in any capacity. Annually a disclosure statement shall be filed with the Agency listing all professional interests in the health field; any financial interests in the health industry; and any fiduciary interest held in a health institution, organization, or agency.

When a conflict arises for a member in the course of business of the Commission, the individual member should declare the conflict. Additionally, any member of the Commission who questions whether or not another member has a conflict of interest in the matter under discussion may ask for a determination by the Commission. If the Commission finds that a conflict exists, the affected member shall also follow the aforementioned procedure.

Section 2. Voting. Abstention. Any member who declares a conflict of interest, or who is found to have a conflict should neither participate in debate nor vote on the issue in question. Whether the individual(s) with a conflict should absent themselves for any reason is a decision for the Commission to decide." (Article V, Commission Bylaws)

I hereby declare a Conflict of Interest on the discussion and voting on _____.

_____(Signature)