

- A. Pursuant to Ark. Code Ann. 17-1-107, and Act 1066 of the 2015 Arkansas Legislature, the Arkansas State Medical Board shall not require a person who meets credentialing requirements to participate in the apprenticeship, education, or training required as a prerequisite to licensing registration or certification of a new professional in the field.
- B. The Arkansas State Medical Board may reinstate the license of a person who demonstrates that:
1. He or she was previously licensed, registered, or certified to practice in the field of his or her profession at any time in the State of Arkansas;
 2. Held his or her license in good standing at the time of licensing;
 3. Did not have his or her license revoked for:
 - a. An act of bad faith;
 - b. A violation of law, rule, or ethic;
 4. Is not holding a suspended or probationary license in any state; and
 5. Is sufficiently competent in his or her field; and
 6. Pays any reinstatement fee required.
- C. The Board may require that sufficient competency in a particular field be demonstrated by:
1. Proficiency testing, which could include:
 - a. A clinical skills assessment program evaluation;
 - b. Refresher training;
 - c. A mentorship program based on the Massachusetts State Medical Board's model;
 - d. Passage of special examinations, i.e. SPEX examination, Part III of the USMLE and/or
 - e. Passage of ABMS Board examination/initial or passage of an ABMS Board examination recertification.
 - f. Any physician re-entering a skills-based medical specialty will require a mentoring program determined on a case-by-case basis.
 2. letters of recommendation; or
 3. both proficiency testing and letters of recommendation.
 4. Continuing education or training if the continuing education or training is required for all professionals in the field to maintain the license, registration, or certification, which could include fifty (50) hours of specialty specific category 1 credit for each inactive year of medical practice.
- D. A person shall not be required to comply with requirements to obtain reinstatement of his or her license, registration, or certification if the person meets the requirements for reciprocity.
- E. If a criminal background check is required of a person currently holding a license, registration, or certification, then the Arkansas State Medical Board may require a person seeking reinstatement under this section to meet the same criminal background check requirements as the person currently holding a license, registration, or certification.

- F. This Regulation is for physicians who have not participated in any patient care for two years and who wish to resume clinical practice. Medical practice will be classified as cognitive medical specialties (i.e. internal medicine/family practice) or surgical/procedure based medical specialties (i.e. surgery/surgical subspecialties).

- G. The physician will forward to the Board an explanation of his or her time out of clinical practice, Continuing Medical education activities during absence from clinical practice, and plan for re-entry/return to clinical practice.

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

DEPARTMENT/AGENCY Arkansas State Medical Board
DIVISION _____
DIVISION DIRECTOR Peggy Pryor Cryer, Executive Secretary
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 _____

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? Regulation 39 Reinstatement of Arkansas Medical License

- 2. What is the subject of the proposed rule? Relicensure of licensees

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

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. Act 1066 of the 2015 Arkansas State Legislature required the Medical Board to pass a Regulation regarding the Relicensure of Licensees

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. ACA §17-95-901; ACA §17-95-303; Act 1066 of 2015

7. What is the purpose of this proposed rule? Why is it necessary? The proposed Rule is necessary by law and permits the relicensure of licensees without them having to participate in apprenticeship, education or training as a prerequisite

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.armedicalboard.org

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

If yes, please complete the following:

Date: February 4, 2016

Time: 8:30 a.m.

Offices of the Arkansas State Medical Board, 1401 W. Capitol Ave. Suite 340,

Place: Little Rock AR 72201

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

February 4, 2016

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

April 1, 2016

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. 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.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas State Medical Board

DIVISION _____

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

TELEPHONE NO. 501-372-4144 **FAX NO.** 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 Regulation 39 Reinstatement of Arkansas Medical License

- 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

General Revenue N/A

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total _____

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

\$ _____

\$ _____

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

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.