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WILLIAM H. TRICE III (1946-2014)

February 14, 2018

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

**RE: My Client: Arkansas State Medical Board
Proposed Amendment to Regulation 17**

Dear Ms. Davis:

Enclosed are the following:

1. Two copies of the Mark-Up of the proposed Amendment to Regulation 17.
2. Two copies of the Proposed Regulation 17.
3. Two copies of the completed Questionnaire and Financial Impact Statement.
4. Two copies of a Summary.
5. Two copies of the Notice of Publication. .

I am also emailing all of this to you at donna@arkleg.state.ar.us, to the Governor's office, and the Secretary of State's office at register@sos.arkansas.gov and the State Library at statedocs@library.arkansas.gov.

Please schedule this for a hearing before the Committee of Legislative Council. Please notify me of the date and time. I wait to hear from you.

Respectfully,



Kevin M. O'Dwyer
Attorney for the Arkansas State Medical Board

KMO/jab

Enclosures

cc: Karen Whatley, Executive Director, Arkansas State Medical Board

REGULATION MARKUP

REGULATION NO. 17

CONTINUING MEDICAL EDUCATION

- A. Pursuant to Ark. Code Ann. 17-80-104, each person holding an active license to practice medicine in the State of Arkansas shall complete twenty (20) credit hours per year of continuing medical education. Fifty (50%) percent of said hours shall be in subjects pertaining to the physician's primary area of practice, and designated as Category I as defined in Paragraph B.4 below. One hour of credit will be allowed for each clock hour of participation and approved continuing education activities, unless otherwise designated in Subsection B below.
- B. Approved continuing medical education activities include the following:
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7. Publication or presentation of a medical paper, report, book, that is authored and published, and deals with current developments, skills, procedures or treatment related to the practice of medicine. Credits may be claimed only once for materials, presented. Credits may be claimed as of the date of the publication or presentation. One credit hour may be reported per hour of preparation, writing and/or presentation.
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1. Options for online and in-person programs; and
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- This section shall apply to all prescribers licensed after December 31, 2015.
- D. Each year, each physician and physician assistant shall obtain at least one (1) hour of CME credit specifically regarding the prescribing of opioids and benzodiazepines. The one hour may be included in the twenty (20) credit hours per year of continuing medical education required in Paragraph A of this regulation and shall not constitute an additional hour of CME per year.
- E. If a person holding an active license to practice medicine in this State fails to meet the foregoing requirements because of illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstances, the Board upon appropriate written application may grant an extension of time to complete same on an individual basis.
- F. Each year, with the application for renewal of an active license to practice medicine in this State, the Board will include a form which requires the person holding the license to certify by signature, under penalty of perjury, that he or she has met the stipulated continuing medical education requirements. In addition, the Board may randomly require physicians submitting such a certification to demonstrate, prior to renewal of license, satisfaction of the continuing medical education requirements stated in his or her certification. A copy of an American Medical Association Physicians Recognition Award (AMA PRA) certificate awarded to the physician and covering the reporting period shall be bona fide evidence of meeting the requirements of the Arkansas State Medical Board. A copy of the American Osteopathic Association or the State Osteopathic Association certificate of continuing medical education completion or the American Osteopathic Association's individual activity report shall be bona fide evidence of meeting the requirements of the Arkansas State Medical Board.
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- E. If a person holding an active license to practice medicine in this State fails to meet the foregoing requirements because of illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstances, the Board upon appropriate written application may grant an extension of time to complete same on an individual basis.
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PROPOSED REGULATION

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

DEPARTMENT/AGENCY Arkansas State Medical Board
DIVISION _____
DIVISION DIRECTOR Karen Whatley, 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 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? Continuing Education

2. What is the subject of the proposed rule? The proposed Amendment to the present Regulation is needed to clarify the amount of Medical Education hours that are required every year for anyone holding an active Medical license in the State of Arkansas.

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. Please see attached

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. A.C.A. 17-80-104 (c)

7. What is the purpose of this proposed rule? Why is it necessary? To clarify the amount of Medical Education hours that are required every year for anyone holding an active Medical license in the State of Arkansas.

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: April 5, 2018

Time: 8.30 a.m.

Place: 1401 W. Capitol Ave. Suite 340, Little Rock AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
April 4, 2018

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
April 9, 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. Please see attached. Proof of publication will be provided as soon as 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). Please 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 Medical Society;

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas State Medical Board

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 Regulation 17

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	<u>N/A</u>
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	_____

Next Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	_____

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

Current Fiscal Year

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

Total _____

Next Fiscal Year

General Revenue N/A
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

\$ N/A

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

\$ N/A

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.

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

DEPARTMENT/AGENCY Arkansas State Medical Board
DIVISION _____
DIVISION DIRECTOR Karen Whatley, 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 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? Continuing Education

2. What is the subject of the proposed rule? The proposed Amendment to the present Regulation is needed to clarify the amount of Medical Education hours that are required every year for anyone holding an active Medical license in the State of Arkansas.

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 X
If yes, please provide a brief summary explaining the regulation. Please see attached

Does this repeal an existing rule? Yes No X
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 X 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. A.C.A. 17-80-104 (c)

7. What is the purpose of this proposed rule? Why is it necessary? To clarify the amount of Medical Education hours that are required every year for anyone holding an active Medical license in the State of Arkansas.

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 X No
If yes, please complete the following:

Date: April 5, 2018

Time: 8.30 a.m.

Place: 1401 W. Capitol Ave. Suite 340, Little Rock AR 72201

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

April 4, 2018

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

April 9, 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. Please see attached. Proof of publication will be provided as soon as 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). Please 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 Medical Society;

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas State Medical Board

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 Regulation 17

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) _____

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

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

Total _____

Next Fiscal Year

General Revenue N/A
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

\$ N/A

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

\$ N/A

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:

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REGULATION 17

SUMMARY

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SUMMARY

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To be published three times on February 20, February 27, and March 6, 2018 in the Daily Record

Bill to: Karen Whatley, Executive Director
Arkansas State Medical Board
1401 W. Capitol Ave, Suite 340
Little Rock AR 72201
(501) 296-1802

Send proof of publication to:

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

NOTICE OF PUBLIC HEARING

In compliance with ACA §25-15-204, the Arkansas State Medical Board gives notice that it will conduct a public hearing at 8:30 a.m. on the 5th day of April, 2018, at the offices of the Arkansas State Medical Board, 1401 W. Capitol Ave., Suite 340, Little Rock, Arkansas 72201. The public hearing will involve the adoption of a new amendment to Regulation 17 to clarify the amount of Medical Education hours that are required for anyone holding an active Medical license in the State of Arkansas.

All individuals desiring to attend said hearing may do so. All individuals desiring to address the Board should contact Karen Whatley, the Executive Secretary of the Arkansas State Medical Board, (501) 296-1802. Individuals desiring a copy of the proposed new Regulation 17, as referred to herein, may contact Karen Whatley, the Executive Director, at the above number.

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