

Hope, Trice, O'Dwyer & Wilson, P.A.

ATTORNEYS AT LAW
211 SPRING STREET
LITTLE ROCK, ARKANSAS 72201
(501) 372-4144
Facsimile (501) 372-7480
www.htolaw.com

RONALD A. HOPE
KEVIN M. O'DWYER
RALPH "WIN" WILSON III
CHRISTOPHER B. ARNOLD

Direct Dial: 501-313-4203
Email: kodwyer@htolaw.com

WILLIAM H. TRICE III (1946-2014)

October 9, 2018

Via email and U.S. Mail
donna@arkleg.state.ar.us

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 Regulation 42 – Licensure of Active Military Members

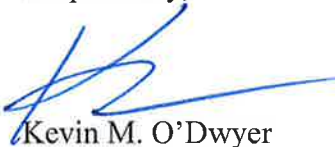
Dear Ms. Davis:

Enclosed please find the following:

1. Two copies of the proposed Regulation 42.
2. Two copies of the completed Questionnaire and Financial Impact Statement.
3. Two copies of the Summary.
4. Two copies of the Notice of Public Hearing which is being published, setting forth the public hearing for December 6, 2018.

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

Respectfully,



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

KMO/mel
Enclosures

cc w/encl.: Arkansas Secretary of State, register@sos.arkansas.gov
Arkansas State Library, statedocs@library.arkansas.gov
Amy Embry, Executive Director, amy.embry@armedicalboard.org

REGULATION 42 – Licensure for Active Military Members

Licensure for Active Military Members

1. Definitions:

- a. As used in this section, “returning military veteran” means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.

2. Licensure:

- a. Pursuant to Act 248 of 2017, the Arkansas State Medical Board shall allow the following individuals to secure employment with a temporary license, certificate, or permit while completing the application process for full licensure or certification or permitting if the individual is the holder in good standing of a substantially equivalent license, certificate, or permit issued by another state:
 - (1) An active duty military service member stationed in the State of Arkansas;
 - (2) A returning military veteran applying within one (1) year of his or her discharge from active duty; or
 - (3) The spouse of a person under subdivisions (b)(1) and (2) of this section.
- b. The Medical Board shall expedite the process and procedures for full licensure, certification, or permitting for the following individuals:
 - (1) An active duty military service member stationed in the State of Arkansas;
 - (2) A returning military veteran applying within one (1) year of his or her discharge from active duty; or
 - (3) The spouse of a person under subdivisions (c)(1) and (2) of this section.
- c. When considering an application for full licensure, certification, or permitting for an active duty military service member stationed in the State of Arkansas or a returning military veteran applying within one (1) year of his or her discharge from active duty, the Medical Board:
 - (1) Shall consider whether or not the applicant’s military training and experience in the area of licensure, certification, or permitting is substantially similar to experience or education required for licensure, certification, or permitting; and
 - (2) Shall accept the applicant’s military training and experience in the area of licensure, certification, or permitting in lieu of experience or education required

PROPOSED REGULATION

for licensure, certification, or permitting if the state board or commission determines the military training and experience is a satisfactory substitute for the experience or education required for licensure, certification, or permitting.

- d. A license required to enable the holder to lawfully engage in a profession, trade, or employment in this state held by an active duty military service member deployed outside the State of Arkansas or his or her spouse shall not expire until one hundred eighty (180) days following the active duty military service member's or spouse's return from active deployment.
- e. (1) The Medical Board shall allow a full or partial exemption from continuing education required as part of licensure, certification, or permitting for a profession, trade, or employment in this state for the following individuals:
 - (A) An active duty military service member deployed outside of the State of Arkansas;
 - (B) A returning military veteran within one (1) year of his or her discharge from active duty; or
 - (C) The spouse of a person under subdivisions (f)(1) and (2) of this section.
- (2) If the Medical Board allows a full or partial exemption from continuing education required under subdivision (f)(1) of this section, the Board may require evidence of completion of continuing education before issuing the individual a subsequent license, certificate, or permit or authorizing the renewal of a license, certificate, or permit.

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

DEPARTMENT/AGENCY Arkansas State Medical Board
DIVISION _____
DIVISION DIRECTOR Amy Embry, Interim 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? Regulation 42 – Licensure for Active Military Members

2. What is the subject of the proposed rule? To add new regulation for licensure of active military members

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. To add new regulation regarding licensure of active military members.

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 §17-1-106; Act 248 of 2017

7. What is the purpose of this proposed rule? Why is it necessary? To add new regulation regarding licensure of active military members.

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: December 6-7, 2018

Time: 8:00 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.)

December 6-7, 2018

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

January 17, 2019

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). Will provide after approval by Governor.

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; Arkansas Osteopathic Association.

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 42 – Licensure for Active Military Members

- 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:

- (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.

Summary

Proposed Regulation 42 – Licensure of Active Military Members – defines and explains licensure requirements for active military members.

To be published three times on October 2, October 9, and October 16, 2018 in the Daily Record:

Bill to:

Amy Embry, Interim Executive Director
Arkansas State Medical Board
1401 W. Capitol Ave, Suite 340
Little Rock AR 72201
Telephone (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
Telephone (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 8:00 a.m. on the 6th and 7th day of December, 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 Regulation 42 governing Licensure of Active Military Members.

All individuals desiring to attend said hearing may do so. All individuals desiring to address the Board should contact Amy Embry, the Interim Executive Director of the Arkansas State Medical Board, (501) 296-1802. Individuals desiring a copy of the proposed new Regulation 42, as referred to herein, may contact Amy Embry, the Interim Executive Director, at the above number.