

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

NOTICE OF PUBLIC HEARING

In compliance with ACA 25-15-204, the Arkansas State Medical Board gives notice of amendments to the Medical Practices Act and to the following rules: Rule 10 – Practice of Respiratory Care Practitioners; Rule 18 – Fee Schedule for Centralized Verification Service; Rule 24 – Physician Assistants; Rule 28 – Education Licenses; Rule 40 – Surgical Technologists; Rule 42 – Licensure for Uniformed Service Member, Veterans, and Spouses. A copy of the amended rules as referred to herein may be found at armedicalboard.org.

All individuals desiring to provide comments may do so. All written comments may be sent to Arkansas State Medical Board, 1401 W. Capitol, Suite 340, Little Rock, Arkansas, 72201 or to PublicHearingComments@armedicalboard.org. The public comment period will end on Monday, December 4, 2023 at 4:30 p.m.

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

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule?
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No
If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).
If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

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

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

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

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

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 no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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 _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

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

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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

\$ _____

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.

RULE 40

ARKANSAS SURGICAL TECHNOLOGISTS

1. DEFINITIONS:

- A. “Surgical technologist” means an individual who performs the skills and techniques of surgical technology under the direction and supervision of a licensed practitioner other than in the course of practicing as a licensed healthcare professional; and
- B. “Surgical technology” means surgical patient care that includes without limitation:
 - (1) Preparing an operating room and a sterile field for surgical procedures by ensuring that surgical equipment is assembled and functioning properly and safely;
 - (2) Preparing sterile supplies, instruments, and equipment using sterile technique;
 - (3) Performing tasks in a sterile field, including:
 - (a) Maintaining asepsis and a sterile operating field;
 - (b) Passing supplies, equipment, or instruments according to the needs of the surgical team;
 - (c) Sponging or suctioning an operative site;
 - (d) Preparing and cutting suture material;
 - (e) Providing irrigation solutions to the supervising physician and irrigating an operative site;
 - (f) Providing drugs within the sterile field for administration by the supervising physician;
 - (g) Handling specimens;
 - (h) Holding retractors and other instruments;
 - (i) Applying electrocautery to clamp on blood vessels;
 - (j) Connecting drains to a suction apparatus;
 - (k) Applying dressing to closed wounds; and
 - (l) Performing counts of supplies such as sponges, needles, and instruments with the registered nurse circulator; and
 - (4) The practice of surgical technology is a separate and distinct healthcare profession that does not include the practice of surgical assisting as performed by physician assistants, surgical assistants, or first assistants.

2. REGISTRATION:

The Arkansas State Medical Board shall register as a surgical technologist an applicant who:

- A. Successfully completed a nationally accredited surgical technology program and holds a current credential as a certified surgical technologist from the National Board of Surgical Technology and Surgical Assisting or its successor or a national organization approved by the Arkansas State Medical Board;
- B. Has successfully completed a surgical technologist training program during the person’s service as a member of any branch of the United States Armed Forces; or
- C. Has been employed to practice as a surgical technologist at any time within the six (6) months before July 1, 2017, if the applicant registers with the Arkansas State Medical Board on or before ~~July 1, 2018~~ March 31, 2020.

3. TITLE PROTECTION:

A person shall not use or assume the title “registered surgical technologist” unless the person is registered with the Arkansas State Medical Board.

4. RENEWAL:

In order to maintain registration, each individual who holds a surgical technologist registration must renew the registration each year.

5. FEES:

The Board will charge an application fee of \$25.00 and an annual renewal fee of \$10.00 for surgical technologists registered with the Board.

HISTORY. Adopted August 3, 2017. Effective October 29, 2017.