ADMINISTRATIVE RULES SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Thursday, August 20, 2026
10:00 a.m.
Room A, MAC
Little Rock, Arkansas

A. Call to Order

B. Report from the Executive Subcommittee Concerning Emergency Rules

C. Reports from ALC Subcommittees Concerning the Review of Rules

D. Reports on Administrative Directives Pursuant to Act 1258 of 2015, for Quarter Ending June 30, 2026

E. Rules Filed Pursuant to Arkansas Code § 10-3-309

1. Arkansas Department of Transportation, State Highway Commission (Michelle Davenport, Chief Jeff Holmes)

a. Permit Rules for the Movement of Oversize and Overweight Vehicles on the Arkansas State Highway System, 27 CAR pt. 111

DESCRIPTION: In 2025, the 94th General Assembly of the State of Arkansas enacted two pieces of legislation impacting the proposed rules. The first, Act 256, changed the definition of a mobile home for permit requirement purposes, and was part of the Arkansas Department of Transportation's legislative package. The second, Act 700, changed the applicability of permit requirements for a farm machinery equipment dealer. In addition, several general and technical corrections were made to update the rules from a 2018 version and provide clarity.

PUBLIC COMMENT: A public hearing was held on May 13, 2026. The public comment period expired May 14, 2026. The agency provided the following public comment summary:

Commenter Name: Kent Hendrix

COMMENT: Changing the permit tech hours of operation from 6:00 a.m. to the undefined "normal business hours" may create a hardship for contractors and others who need to move oversize equipment. ArPars online permitting often does not return a valid route and requires a tech to override simple routing issues. For example, say we determine late in the day that an excavator needs to be moved to another job. That load needs to leave at daylight, not 8:30 a.m. If the load is going across US 270 at Prattsville or US 64 at Vilonia, ArPars will fail that route and a tech must override the failure. **RESPONSE:** The normal business hours remain the same and begin at 6:00 am and end at 4:30 pm. Contact was made with commentor to discuss.

Grant Wise, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

1. 27 CAR § 111-101(16)(C) – This subdivision references Arkansas Code § 25-35-210. Was § 27-35-210 perhaps intended? **RESPONSE:** Agree, typographical error.

2. 27 CAR § 111-1201(3) – This subsection appears to track Arkansas Code § 27-35-210(a)(2)(D)(iii), which includes the term "unless" to begin a list of three subdivisions. The rule lacks the term "unless", which keeps the three following subdivisions from being a list. Was this intentional? **RESPONSE:** Agree, typographical error.

3. 27 CAR § 111-1201(3)(A) – This subdivision seems premised on Arkansas Code § 27-35-210(a)(2)(D)(iii)*(a)*, which references State Highway 149, whereas the rule references State Highway 75. Was this intentional? **RESPONSE:** Agree, typographical error.

4. 27 CAR § 111-1504(c)(4) – The qualifications outlined in 27 CAR § 111-1504(c)(4)(A-C), as written, appear to be limited to 27 CAR § 111-1504(c)(4), where Arkansas Code § 27-35-210(a)(2)(B) applies them to all of the movements outlined in Arkansas Code § 27-35-210(a)(2)(A), which are found at 27 CAR § 111-1504(c)(1-4). Is there a reason that the rule appears to differ? **RESPONSE:** Clarified the numbering of the section and the wording.

5. 27 CAR § 111-1504(c)(4)(A) – This subdivision appears to be premised on Arkansas Code § 27-35-210(a)(2)(B)(i), which refers to "[t]he vehicle or machinery", whereas the rule refers to "earthmoving equipment". Was this intentional? **RESPONSE:** Previous change addressed.

6. 27 CAR § 111-1504(c)(4)(A) – This subdivision appears to be premised on Arkansas Code § 27-35-210(a)(2)(B)(i), which references State Highway 149, whereas the rule references State Highway 75. Was this intentional? **RESPONSE:** Previous change addressed.

7. 27 CAR § 111-1504(c)(4)(C) – This subdivision appears to be premised on Arkansas Code § 27-35-210(a)(2)(B)(iii), which refers to "[t]he vehicle or machinery", whereas the rule refers to "earthmoving equipment". Was this intentional? **RESPONSE:** Previous change addressed.

8. 27 CAR § 111-2001(a) – This subdivision appears premised on Arkansas Code § 27-35-210(r)(1), which provides in part that the commission may issue a special permit valid "for one year for the movement of a truck tractor and single semitrailer combination with five (5) axles." The rule is being amended to read "with a minimum of five (5) axles." Is there a reason that the rule appears to differ? **RESPONSE:** This is an intentional change to clarify the statute and the industry practice as the statute does not address if the trailer has more axles but meets this

weight criteria. The determination was that it should be read as a minimum number of axles. It also complied with our understanding of the legislative intent at the time of amendment.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency has indicated that the proposed rule does not have a financial impact.

LEGAL AUTHORIZATION: The Arkansas Department of Transportation shall promulgate rules covering the application for, and issuance of, special permits for the safe movement of manufactured home units in accordance with the provisions of Arkansas Code Title 27, Chapter 35, Subchapter 3, regarding manufactured homes and houses. *See* Arkansas Code § 27-35-303. The State Highway Commission may issue such special rules for the movement of houses and other structures on the highways as the commission deems necessary for the protection of the public safety. *See* Arkansas Code § 27-35-309(c)(1). The Arkansas Department of Transportation shall also adopt rules necessary to implement Arkansas Code § 27-35-210(r), concerning the issuance of special permits for the movement of truck tractor and single semitrailer combinations, including without limitation the criteria required to qualify for the issuance of a special permit. *See* Arkansas Code § 27-35-210(r)(3).

Further authority for the rulemaking can be found in Arkansas Code § 27-65-107(a)(13), which provides that the State Highway Commission shall be vested with the power to adopt rules to implement the commission's powers. Additionally, the commission shall be vested with the power to adopt reasonable rules from time to time for the protection of, and covering, traffic on and in the use of the state highway system and in controlling use of, and access to, the highways. *See* Arkansas Code § 27-65-107(a)(14).

The proposed amendments include those made in light of Acts 2025, No. 256, sponsored by Senator Ricky Hill, which amended the definition of a manufactured home unit. The proposed amendments also implement Acts 2025, No. 700, sponsored by Senator Ronald Caldwell, which amended the law concerning permits for special cargoes, and amended the law concerning the issuance of a permit for special cargo transported by a farm machinery equipment hauler.

b. License Plate Reader Rules, 12 CAR pt. 150

DESCRIPTION: In 2025, the 94th General Assembly of the State of Arkansas enacted Act 668 during the Regular Session, which amended the law concerning the use of license plate readers by law enforcement and others. Among other things, the enacted law requires an entity that uses license plate readers promulgate rules and policies concerning the manner and method of obtaining, retaining, and destroying captured plated data, including without limitation specific rules and policies concerning retention of material in excess of one hundred fifty (150) days.

The Arkansas Highway Police, as an entity that uses license plate readers, has prepared the proposed rules to comply with the requirements of Act 668. These rules have been based upon rules prepared by the Arkansas Department of Public Safety, revised to apply to the Arkansas Highway Police.

PUBLIC COMMENT: A public hearing was held on May 13, 2026. The public comment period expired May 14, 2026. Due to its length, the public comment summary can be accessed electronically on the General Assembly website.

Grant Wise, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

1. 12 CAR § 150-102(2) – Is there a reason that the definition for "alert" differs from that in Arkansas Code § 12-12-1802(1)? **RESPONSE:** This language tracks the specific language used in the Department of Public Safety, Division of Arkansas State Police rules found at 12 CAR § 24-102. The term is used in a different context throughout the rules and the Arkansas Highway Police wanted to maintain uniformity with the Arkansas State Police.

2. 12 CAR § 150-103(a) – This subsection provides: "Use of LPR systems is restricted to legitimate law enforcement purposes." Is this referring just to members' use? *See* Arkansas Code § 12-12-1803 (permitting private landowners, private leaseholders, or commercial businesses to use an automatic license plate reader system in certain enumerated circumstances). **RESPONSE:** This language tracks the specific language used in the Department of Public Safety, Division of Arkansas State Police rules found at 12 CAR § 24-102. The term is used in a different context throughout the rules and the Arkansas Highway Police wanted to maintain uniformity with the Arkansas State Police.

3. 12 CAR § 150-103(d) – This subsection references certain items as the property of the "division". Which division is being referenced? **RESPONSE:** Internally, the Arkansas Highway Police are referred to as a Division of ARDOT.

4. 12 CAR § 150-104(b) – This subsection limits the sharing of data to other law enforcement agencies only as outlined in the rules and Arkansas Code § 12-12-1803. Is this citation correct? *See* Arkansas Code § 12-12-1804 providing that "[c]aptured plate data obtained by a law enforcement agency under § 12-12-1803(b)(1) that indicates evidence of an offense may be shared with other law enforcement agencies." **RESPONSE:** The citation was incorrect in the current rules of the Arkansas State Police at 12 CAR § 24-1104 rules and was not identified during our review. The code citation should be Arkansas Code § 12-12-1804.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency has indicated that the proposed rule has no financial impact.

LEGAL AUTHORIZATION: Arkansas Code § 12-12-1805(a)(3)(A) provides that an entity that uses an automatic license plate reader system shall promulgate rules and policies concerning the manner and method of obtaining, retaining, and destroying captured plate data, including without limitation specific rules and policies concerning retention of material in excess of one hundred fifty (150) days and make those rules available for public inspection. Further authority for the rulemaking can be found in Arkansas Code § 27-65-107(a)(13), which provides that the State Highway Commission shall be vested with the power to adopt rules to implement the commission's powers. In addition, the commission shall be vested with the power to adopt reasonable rules from time to time for the protection of, and covering, traffic on and in the use of the state highway system and in controlling use of, and access to, the highways. *See* Arkansas Code § 27-65-107(a)(14).

The rule implements Acts 2025, No. 668, sponsored by Senator Ben Gilmore, which amended the Automatic License Plate Reader System Act, and provided for the use of automatic license plate readers by private landowners, private leaseholder, and commercial businesses.

~~**c. Utility Accommodation Rules, 27 CAR pt. 91**~~

2. Department of Commerce, State Insurance Department (Sara Farris)

a. Vision Care Plan Coverage, 23 CAR pt. 142

DESCRIPTION: 23 CAR pt 142 must be updated to comply with Act 142 of 2025.

Background and Purpose of Rule

Act 142 of 2025 amended the Vision Care Plan Act of 2015, codified at Ark. Code Ann. §§ 23-99-1001, et seq.

23 CAR pt 142, the rule promulgated to enforce the Vision Care Plan Act of 2015, must now be amended to comply with Act 142 of 2025.

Explanation of the Proposed Rule

23 CAR pt 142 must be updated to comply with Act 142 of 2025.

Under Section 3 of Act 142, codified at Ark. Code Ann. § 23-99-1003(d), the reimbursement from a vision plan to a vision care provider for a covered service or covered materials shall not be less than "nominal or de minimis" – a term used in the Act – or less than the current calendar year Medicare reimbursement rate. The proposed amended rule explains that a reimbursement for a covered service that is greater than or equal to the Medicare Physician Fee Schedule for the applicable or similar service, regardless of whether the service is eligible for Medicare coverage, shall not be considered a violation. In addition, the proposed amended rule provides that a reimbursement for covered materials shall not be "nominal or de minimis."

The proposed amended rule adds "vision benefit managers" to the list of vision coverage providers subject to the rule. It repeals the term "de minimis" as currently used in 23 CAR § 142-102(a)(2) to avoid confusion with the term "nominal or de minimis" as used in Act 142. Finally, the proposed rule clarifies that the rule does not apply to plans exempt from state regulation, removes obsolete language, and clarifies the Act's recoupment provision.

The Arkansas Optometric Association will likely comment in favor of the rule. The National Association of Vision Care Plans and the American Council of Life Insurers testified against the passage of Act 142 and they may oppose the proposed amended rule, as well. In addition, EyeMed, a vision benefit and network administrator, will likely oppose the proposed amended rule's reimbursement provision.

AID requests an exception to the repeal requirement in Executive Order 23-02 because AID has no rules left to repeal, and this amended rule is needed to ensure compliance with Act 142 of 2025.

Following the first public comment period, the department made changes to the rule and provided the following summary:

Since the rule was filed, AID made additional changes to clarify that all covered services are to be reimbursed at no less than the Medicare Physician Fee Schedule rate. If a covered service has no corresponding Medicare Physician Fee Schedule rate, reimbursement that is greater than or equal to the Medicare Physician Fee Schedule for the most similar service, regardless of whether the service is eligible for Medicare coverage, shall not be considered a violation. In addition, AID accepted a suggested change from Walmart to more specifically describe the rates to be used.

AID removed the exclusion for plans exempt from state regulation under state law.

PUBLIC COMMENT: A public hearing was held on this rule on April 17, 2026. The department held two public comment periods on this rule. The first public comment period expired on April 27, 2026. The department received the following comments and provided the following responses during the first public comment period:

Commenter's Name: Marsha Dickerson

COMMENT: The simplest and most effective solution to many current problems in vision claim processing is to require that all claims be filed through the patient's primary insurance company portal whenever that insurer advertises or offers those benefits. The primary insurer should process the claim and coordinate internally with subcontracted vendors.

Patients should also be able to see the optometrist closest to them without being directed to specific network providers. There should be clearly defined procedure and/or diagnosis codes that specifically identify a routine vision exam to eliminate confusion. This would reduce confusion and improve access to care in rural Arkansas. **RESPONSE:** These changes are beyond the scope of this rule.

Commenter's Name: Julie Dolven, O.D., President, Arkansas Optometric Association

COMMENT: Comment is favorable and urges adoption of rule. **RESPONSE:** No response required.

Commenter's Name: Matthew Howell, O.D.

COMMENT: Part 142 implementing Act 142 of 2025 and respectfully urge its adoption. **RESPONSE:** No response required.

Commenter's Name: Todd W. Hook, O.D.

COMMENT: Comment supports Act 142 and the proposed rule. **RESPONSE:** No response required.

Commenter's Name: Michael Lindsey, Walmart

COMMENT: Suggests adding language to the rule to clarify that the Medicare Physician Fee Schedule rates are those non-facility, locality-specific rates for the geographic area in which the services are furnished, for the applicable fee schedule in effect at the time of service, as established by the Centers for Medicare and Medicaid Services. **RESPONSE:** Agree — change made.

Commenter's Name: Kara Webb, American Optometric Association

COMMENT: Commenter supports adoption of the rule. **RESPONSE:** No response required.

Commenter's Name: Frederick H. Davis, Kutak Rock

COMMENT: Commenter suggests language implementing Walmart's suggested change. **RESPONSE:** Suggested language adopted.

Commenter's Names: Lisa Anne Hurt-Forsythe, National Association of Vision Care Plans; Joann Waiters, American Council of Life Insurers

COMMENT: To ensure the rule is grounded in statute, NAVCP and ACLI respectfully urge the Department to revise the proposed rule to:

(1) Limit Medicare benchmarking to services and materials for which a rate exists;

(2) Clarify that Arkansas Code § 23-99-1003(d) does not prohibit reasonable cost-sharing;

(3) Adopt a consumer-focused, enrollee impact standard for the "nominal or de minimis" prohibition;

(4) Provide an administrable standard for materials reimbursement or remove that provision;

(5) Align the rule's applicability provisions with Act 142's express statutory triggers;

(6) Include a fraud and material misrepresentation exception in the antirecoupment provision; and

(7) Limit provider-facing obligations to entities expressly covered by the statute.

RESPONSE: AID responds to each numbered suggestion:

(1) AID believes the rule language accurately reflects the legislature's intent behind Act 142;

(2) The rule adopts Act 142's definitions of "covered material" and "covered service," both of which reference reimbursement subject to cost-share;

(3) Commenter does not suggest a specific standard for AID to use;

(4) This comment is duplicative of the previous one;

(5) The statute's enforcement dates apply, even if not copied into the rule;

(6) Act 142 contains no direction to AID to promulgate a rule with such an exception;

(7) The Commenter's concern is unclear. The rule applies to the same entities the Act applies to, so the legislature will have to make any further changes.

The second public comment period expired on June 12, 2026. The department received the following comments and provided the following responses during the second public comment period:

<u>Commenter's Name:</u> Robert Anderson, Executive Director, Little Rock Eye Clinic

COMMENT: Commenter agrees with all changes. **RESPONSE:** No response required.

<u>Commenter's Names:</u> Lisa Anne Hurt-Forsythe, National Association of Vision Care Plans; Joann Waiters, American Council of Life Insurers

COMMENT: NAVCP and ACLI recognize AID's efforts to bring the rule into closer alignment with Act 142, and the new language has several improvements. Commenters request the following additional revisions:

(1) The use of "most similar" Medicare services where no corresponding Medicare reimbursement exists;

(2) Clarification as to how the reimbursement standard outlined in

A.C.A. § 23-99-1003(d) operates alongside lawful enrollee cost-sharing arrangements;

(3) Ensure that "nominal or de minimis" reimbursement is interpreted as commonly understood, particularly regarding reimbursement for covered materials;

(4) Duplicative allocation of compliance responsibilities among regulated entities.

RESPONSE: AID responds to each numbered suggestion:

(1) AID believes the rule language accurately reflects the legislature's intent that all services be reimbursed at the Medicare rate;

(2) AID believes the language is clear. The rule adopts Act 142's definitions of "covered material" and "covered service," both of which reference reimbursement subject to cost-share;

(3) AID believes the rule is clear as written;

(4) This comment is duplicative of comment submitted in first public comment period. The rule applies to the same entities the Act applies to, and the legislature will have to make any further changes.

<u>Commenter's Name:</u> Cathy Holley, SVP, Managed Care Governance, EyeMed Vision Care

COMMENT: Commenter opposes proposed 23 CAR § 142-102(d)(3) regarding the appropriate reimbursement rate for covered services. Commenter believes the proposed amended rule goes beyond the boundaries of Act 142. **RESPONSE:** AID believes the rule language accurately reflects the legislature's intent that all services be reimbursed at the Medicare rate.

Isaac Linam, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

QUESTION 1: Arkansas Code § 23-99-1003(d), as amended by Acts 2025, No. 142, provides that reimbursements for both "covered services" and "covered materials" shall not be nominal or de minimis or less than the current calendar year Medicaid reimbursement rate. However, your rule provides that reimbursement for "covered services" only shall not be less than the current calendar year Medicare reimbursement rate. Why does the rule omit that reimbursement for "covered services" shall not be de minimis? **RESPONSE:** Our intent is that a covered service reimbursed at or above the Medicare Physician Fee Schedule will not be considered a violation, meaning not de minimis.

QUESTION 2: Arkansas Code § 23-99-1003(d), as amended by Acts 2025, No. 142, provides that reimbursements for both "covered services" and "covered materials" shall not be nominal or de minimis or less than the current calendar year Medicaid reimbursement rate. However, your rule provides that reimbursement for "covered materials" only shall not be de minimis. Why does the rule omit that reimbursement for "covered materials" shall not be less than the current calendar year Medicare reimbursement rate? **RESPONSE:** Medicare does not have reimbursement rates for all covered materials, so we've had to rely on the de minimis restriction.

QUESTION 3: Acts 2025, No. 142, adds several new subsections, other than (d), to Arkansas Code § 23-99-1003. Why does your rule omit any new provisions related to those subsections newly added to the statute? **RESPONSE:** We are not aware of any rules that are needed regarding those additional sections.

The proposed effective date for this rule is pending legislative review and approval.

FINANCIAL IMPACT: The department indicated the financial impact of this rule is unknown. The department stated that, "[t]he reimbursement requirements may have a financial impact on vision plans but the amount is unknown."

LEGAL AUTHORIZATION: Arkansas Code § 23-99-1005 provides that the State Insurance Department shall "promulgate rules for the implementation and administration of" the Vision Care Plan Act of 2015, Arkansas Code § 23-99-101 et seq.

The amendments to this rule implement Acts 2025, No. 142, which was sponsored by Representative Jon Eubanks. Act 142 regulated vision benefit managers, amended the Vision Care Plan Act of 2015, and amended the Healthcare Contracting Simplification Act.

3. Department of Education, Division of Elementary and Secondary Education (Courtney Salas-Ford)

a. Rules Governing the Course Choice Program, 6 CAR pt. 108

DESCRIPTION: The Department of Education, Division of Elementary and Secondary Education proposes its Rules Governing the Course Choice Program.

Summary of Proposed Rule

Students grade 6 – 12 may take courses either in person or online offered by course providers if the course is not offered at their public school district or open-enrollment public charter school. The rule defines the "per-course amount for a course provider" as the standard market rate that is up to 8% of the per-pupil amount each year as determined by the foundation funding amount established under Arkansas Code § 6-20-2305. Course providers will initially be authorized for a period of three years, subject to board review after the second year, and continued monitoring. The rule outlines school district responsibilities pertaining to course choice policies and procedures.

Post Public Comment:

The Division of Elementary and Secondary Education received public comments on these proposed rules such that the following non-substantive changes are being made:

1) § 108-102(2) the division revised the definition of "course" by deleting "one (1)" from the definition. This ensures that there is no confusion considering some courses are a half unit of material thus receiving a half credit.

2) § 108-103(e)(4) the division added statutory language that was previously not included to ensure clarity.

3) § 108-105(a)(2) the division made a correction to a typo. Previously, the reference incorrectly pointed to "[f]unds under § 102(4)(A) of this part" but now correctly references § 102(6)(A).

<u>PUBLIC COMMENT</u>: A public hearing was held on June 8, 2026. The public comment period expired June 15, 2026. The agency provided the following public comment summary:

<u>Commenter Name</u>: Tripp Walter, APSRC

COMMENT: Page 4, 6 CAR §108-103, Section (c)(5): This language was repealed by Act 730 of 2025, Page 3, Lines 18-19. **AGENCY RESPONSE:** Comment considered. No substantive or non-substantive changes were made. The statutory provision of Arkansas Code § 6-16-1703(b)(3) stipulates that the agreement between the State Board and course providers shall include without limitation a plan for implementing or providing the following: … Although this language was repealed by statute, there is no provision within the statute that limits the language from being included in rule. The division included this language to ensure courses are aligned with Arkansas diploma requirements.

<u>Commenter Name</u>: Tripp Walter, APSRC

COMMENT: Page 5, 6 CAR §108-103, Section (e)(2)-(3): The language of Act 730 of 2025 does not provide for a Division of Elementary and Secondary Education review after the course provider's second year of operation (Ark. Code Ann. §6-16-1703(c)(2)(A)), but rather for a State Board of Education review. **AGENCY RESPONSE:** Comment considered. No substantive or non-substantive changes were made. The division's role in providing an initial review facilitates the State Board's review as required by statute.

<u>Commenter Name</u>: Tripp Walter, APSRC

COMMENT: Page 5, 6 CAR §108-103, Section (e)(4): The language in section (e)(4) does not comport with the language in Act 730 of 2025 (Ark. Code Ann. § 6-16-1703 (c)(2(B)), which indicates that if the performance of the students (not the course provider) does not meet the standards set by the State Board of Education, then the course provider shall be placed on probation. **AGENCY RESPONSE:** No substantive changes made. A non-substantive change was made to include that language, thus mirroring the statute.

Commenter Name: Lucas Harder, ARSBA

COMMENT: I would recommend changing this to "which at least a one-half (1/2) credit is awarded" as there are references in both pay and process for a student to take a course that would only provide a half credit. **AGENCY RESPONSE:** No substantive changes made. A non-substantive change was made to clarify the applicability of the definition of "course" in § 108-102(2), to the provisions of the rule by deleting *one (1)* from the definition. This ensures that there is no confusion considering some courses receive half credit.

Commenter Name: Lucas Harder, ARSBA

COMMENT: 104(f): To try and prevent confusion, I would recommend splitting this into two separate statements so that it would read something along these lines: (f)(1) Except as required under (f)(2), schools may, but are not required to, provide transportation for a student to and from the location of the course where the student is enrolled under this part. (2) The school shall provide transportation for a student to and from the location of the course where the student is enrolled under this part if the student has an Individualized Education Program (IEP) that entitles the student to transportation. **AGENCY RESPONSE:** The comment was considered. No substantive or non-substantive changes made.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following questions and was provided with the following agency responses:

1) 6 CAR § 108-103(e)(4) provides that a course provider shall be placed on probation "if the *course provider* does not meet the performance standards set by the State Board of Education." (Emphasis added.) However, Arkansas Code § 6-16-1703(c)(2)(B) requires such probation "[i]f the performance of the *eligible students* . . . does not meet performance standards set by the State Board of Education." (Emphasis added.) Does the agency anticipate a scenario where the eligible student's performance would meet performance standards, but the course provider's performance would not? Or vice versa? **RESPONSE:** The agency does not anticipate a scenario where the eligible students' performance would meet standards, but the course providers would not, nor vice versa. Will amend to mirror statute and avoid confusion.

2) 6 CAR § 108-105(a)(2) refers to "[f]unds under § 102(4)(A) of this part"[]. However, 6 CAR § 108-102(4)(A) concerns the definition for "eligible student". Is this citation accurate? **RESPONSE:** This was a typo. We will amend the reference to 108-102(6)(A).

3) 6 CAR § 108-105(e)(3) – Is there a reason why this provision excludes

vocational centers from receiving foundation funding under certain circumstances? **RESPONSE:** Vocational centers receive traditional vocational center aid via the public school fund. Therefore, this exclusion ensures that there is no double dipping on the part of vocational centers.

The proposed effective date is September 1, 2026.

FINANCIAL IMPACT: The agency has indicated that the proposed rule does not have a financial impact.

LEGAL AUTHORIZATION: To support student participation, not later than the 2026-2027 school year, the State Board of Education shall promulgate rules on the Course Choice Program, including a process that includes without limitation the following:

(1) The determination regarding whether each: (a) proposed course provider complies with the law and state board rules; (b) proposal submitted by a proposed course provider is valid, complete, financially well-structured, and educationally sound; (c) proposal submitted by a proposed course provider provides a plan for collecting data; and (d) proposal submitted by a proposed course provider offers the potential for fulfilling the purposes of the Course Choice Program;

(2) The provision for an independent evaluation of each proposal submitted by a proposed course provider by a third party with educational, organizational, legal, and financial expertise; and

(3) The provision for an agreement between the state board and course provider that shall include without limitation a plan for implementing or providing the following: (a) administration of state assessments by the course provider or an eligible student's resident public school district as determined by the Division of Elementary and Secondary Education and as required by the school rating system under Arkansas Code § 6-15-2101 et seq., which concerns the school rating system; (b) the public school districts in which the course provider will operate; (c) proposed courses offered, alignment of the courses by the course provider with the Arkansas academic standards, and the designated length of each course offered; and (d) assurances that the course provider shall, to the best of its ability, collaborate and coordinate with a local public school district in which an eligible student is enrolled full time. *See* Arkansas Code § 6-16-1703(b).

The proposed rule implements the following legislative acts:

Acts 2023, No. 237, sponsored by Senator Breanne Davis, which created the LEARNS Act, and which amended various provisions of the Arkansas Code as they relate to early childhood through grade twelve (12) education in the State of Arkansas; and

Acts 2025, No. 730, sponsored by Senator Breanne Davis, which amended provisions of the Arkansas Code regarding the Course Choice Program.

b. **Rules Governing Public School Policies Relating to Overnight Travel and Use of Public School Lavatories, 6 CAR pt. 10**

<u>DESCRIPTION</u>: The Department of Education, Division of Elementary and Secondary Education seeks to amend its Rules Governing Public School Policies Relating to Overnight Travel and Use of Public School Lavatories.

Summary of Amendments

This rule amendment updates the rule to reflect the changes made by Act 119 of 2025. The rule amendment allows athletic personnel to enter a multiple occupancy restroom or changing area to address, supervise, or treat student athletes that the individual is overseeing during an athletic event if the students are not in a state of undress and another adult is present.

Post Public Comment Changes

A scrivener's error was corrected in the first definition of the rule and an error in a statutory citation was corrected in the existing language of the rule.

<u>PUBLIC COMMENT</u>: A public hearing was held on June 8, 2026. The public comment period expired June 15, 2026. The agency provided the following summary of public comments:

<u>Commenter Name</u>: Tripp Walter, Arkansas Public School Resource Center

COMMENT: 1.) Page 4, 6 CAR §10-103, Section (a): Correct statutory citation from "Arkansas Code §6-21-120" to "Arkansas Code §6-10-137(b)". 2.) Page 5, 6 CAR §10-103, Section (c)(2): No statute could be found to support this section. **AGENCY RESPONSE:** With respect to comment one, comment considered, a non-substantive change was made to correct an erroneous citation in the existing rule language. With respect to comment two, comment considered, no changes made. The comment addresses substantive language in the rule but outside the scope of the proposed amendment.

<u>Commenter Name</u>: Lucas Harder, Arkansas School Board Association

COMMENT: 6 CAR Part 10: 101(1): "Open-enrollment public charger school" should be "charter school". **AGENCY RESPONSE:** Comment considered, a non-substantive change was made consistent with the comment.

The proposed effective date is September 1, 2026.

<u>FINANCIAL IMPACT</u>: The agency has indicated that the proposed rule does not have a financial impact.

<u>LEGAL AUTHORIZATION</u>: Pursuant to Arkansas Code § 6-11-105, the State Board of Education shall administer the state's early learning and education system, which shall include the administration of relevant rules related to administering funding, licensing, standards, and program requirements. Further authority for the rulemaking can be found in Arkansas Code § 6-21-120(g), which provides that the Division of Elementary and Secondary Education shall promulgate rules to implement Arkansas Code § 6-21-120, which concerns public school restrooms and designation based on sex.

The amended rule implements Acts 2025, No. 119, sponsored by Representative Mary Bentley, which authorized a coach or athletics personnel member of the opposite sex to address, supervise, or treat student athletes in a multiple occupancy restroom or changing area under certain conditions.

c. Rules Governing Consolidation and Annexation of School Districts, 6 CAR pt. 231

DESCRIPTION: The Department of Education, Division of Elementary and Secondary Education seeks to amend its Rules Governing Consolidation and Annexation of School Districts.

PURPOSE

The purpose of this rule is to govern the process by which schools are annexed or consolidated. The portion of the rule being amended, Subpart 4, governs incentive funding for annexations or consolidations. The purpose of this amendment is to incentivize annexations and consolidations by ensuring that when a district agrees to combine with an isolated school and that school subsequently detaches under Arkansas Code § 6-13-1801 et. seq, the receiving district will not be financially penalized.

BACKGROUND

Following the passage of Act 919 of 2025, four isolated schools held referendums which resulted in four newly created school districts. This effectively reversed prior consolidations and requires a division of property including fund balances. Act 157 of 2026 governs how fund balances are to be divided which ensures newly created districts have funds to operate.

KEY POINTS

1) Establishes funding to offset the cost of detachment to a district which has previously consolidated with an isolated school.

2) Does not require any new funding to the ADE.

DISCUSSION

This amendment will ensure that the districts which had previously consolidated are able to recover any lost funds which are not offset by declining enrollment funding so that those districts are not in a worse financial position for having consolidated with the isolated district. It is important to note that the funds utilized under this amendment are existing funds available to the ADE and no new funding will be required to implement the rule.

Post Public Comment Changes

The only change is the correction of a scrivener's error in existing language on page 43 of the rule.

PUBLIC COMMENT: A public hearing was held on June 8, 2026. The public comment period expired June 15, 2026. The agency provided the following public comment summary:

Commenter Name: Julie Duncan

COMMENT: I appreciate the opportunity to comment on the proposed rules as a mother of two Mountain View students. I am encouraged that the Department appears to recognize that parent districts of detaching schools are facing a significant financial burden by this law and its subsequent "special language" changes. The proposed funding provisions are a positive step in helping to make sure students, like mine, are not harmed through this process. However, I remain concerned that overall it continues to place most of the burden on the existing district while providing limited protections for the students who remain. The communities of parent districts like Mountain View were never given a vote in the detachment process, despite the significant financial and educational impacts these decisions create for our children. While residents of the detaching communities were allowed to determine their future, the families who remained in the existing district had no voice in a decision that directly affected them. Independence for one community should not come at the expense of opportunities for the children in another. I respectfully request that the Department strengthen these rules by clearly guaranteeing that parent districts will be fully protected from financial harm and by ensuring that the interests of students remaining in the existing district receive equal consideration throughout the process. I realize this request may go outside of the scope of the current public comment and that it may require legislative action to fix the one-sided slant of this legislation, but I hope something can be done before any more districts walk down this road. This is far from the initial law so many of us supported. This process has been a nightmare (and I am sure it has not been easy for ADE either). The bottom line is that we want Rural Special, Timbo, and the other isolated schools to have a chance to succeed…we just don't feel our own students should suffer in the process. Again, I appreciate the proposed rule change and the funding it will help us recoup, but please consider ways to help make this a more fair and transparent process for ALL. Thank you for your consideration. **AGENCY RESPONSE:** Comment considered, no changes made. The policy concerns of this comment are beyond the scope of current rulemaking.

Commenter Name: Lucas Harder, Arkansas School Board Association

COMMENT: 6 CAR Part 231: 604(b)(3): “Fiscal distress” is spelled “fiscal destress”. **AGENCY RESPONSE:** Comment considered, a non-substantive change was made constant with the comment.

This rule was previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act. The effective date of the emergency rule was June 19, 2026. The proposed effective date for permanent promulgation is September 1, 2026.

FINANCIAL IMPACT: The agency has indicated that the proposed rule does have a financial impact. The agency indicated that the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule is $2,250,719 for the current fiscal year. Additionally, because there is 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 and, pursuant to Arkansas Code § 25-15-204(e)(4), the agency provided the following written findings with its financial impact statement:

1. Statement of the Rule’s Basic Purpose: The purpose of this rule is to govern the process by which schools are annexed or consolidated. The portion of the rule being amended, Subpart 4, governs incentive funding for annexations or consolidations. The purpose of this amendment is to incentives annexations and consolidations by ensuring that when district agrees to combine with an isolates school and that school subsequently detaches under Arkansas Code § 6-13-1801 et. seq, the receiving district will not be finically penalized. It is important to note that the funds utilized under this amendment are existing funds available to the ADE and no new funding will be required to implement the rule.

2. Problem addressed by the proposed rule & a statement whether a rule is required by statute: The ADE is required by Arkansas Code § 6-13-1418 to promulgate rules for allocation of funds appropriated to incentivize consolidation. This amendment updates the rule to address Act 919 of 2025 which provides a mechanism for an isolated school to cause a ballot issue to be placed on the ballot which allowed the isolated school to reverse a prior consolidation and reform its own district. Four such districts were created in the 2026 annual school election. In order to allow these districts to operate, further clarifications were made in Act 157 of 2026 which, in part, governed how fund balances were to be divided. This rule amendment will ensure that a resulting or receiving district will be able to recover funds lost in the transfer to the new district so that future consolidations are not deterred due to the possibility of future detachments.

3. Description of the factual evidence justifying the rule and description of how the benefits of the rule meet the relevant statutory objectives and *justify the rule's costs:* Four new public school districts have been formed under Act 919 of 2025 in the spring of 2026 and have detached from three resulting or receiving district. As stated above, the detachment of isolated school districts will desensitize consolidation if the resulting or receiving district may face a negative finical impact in the future. This rule is necessary to ensure funds appropriated to make consolidations and annexations have a positive final impact are not undermined by the new policy allowing isolated schools, under certain circumstances, to reverse those consolidations.

4. 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: This amendment establishes funding levels based on the amount of funds the resulting or receiving district is required to transfer to the detaching isolated school district and subtracts the amount of declining enrollment funding which the district will receive due to the change in enrollment. The incentive funding allocated by the proposed amendment will make up that shortfall. The only alternative rule which is available would be to provide no funding or funding which does not make up the shortfall in its entirety. Failing to make up the shortfall in its entirety will disincentivize future consolidations and annexations and undermine the policy established in Arkansas Code § 6-13-1418.

5. 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: This amendment is being promulgated as an emergency rule therefore there has been on public comment to date.

6. 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: The existing rule has not contributed nor created to problem addressed by this amendment.

7. 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: the rule is achieving the statutory objectives; the benefits of the rule continue to justify its costs; and the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives: The ADE will conduct an internal review to evaluate the number of consolidations or annexations which occurred in the prior 10 years and the number of isolated school districts formed in that period necessitating funding under this provision.

<u>LEGAL AUTHORIZATION</u>: Pursuant to Arkansas Code § 6-13-1409(a), the State Board of Education shall have the following duties regarding consolidations and annexations: 1) to form local school districts, change boundary lines of school districts, dissolve school districts and annex the territory of those school districts to another school district, create new school districts, and perform all other functions regarding changes in school districts in accordance with the law; 2) to transfer funds and attach territory that is in no school district to other school districts as may seem best for the educational welfare of the children; and 3) to enact rules regarding the consolidation and annexation of school districts under Title 6 of the Arkansas Code. Additionally, the state board shall promulgate rules to facilitate the administration of the Public Education Reorganization Act, codified at Arkansas Code § 6-13-1601 et seq. *See* Arkansas Code § 6-13-1603(j).

The amended rules implement the following legislative acts:

Acts 2025, No. 919, sponsored by Senator Missy Irvin, which concerned the formation of an isolated school district; established the membership of an isolated school district board of directors; created a funding mechanism for a newly formed isolated school district; and directed ownership of facilities and property of isolated schools; and

Acts 2026, No. 157, sponsored by the Joint Budget Committee, which made an appropriation for public school fund grants for the Department of Education – Division of Elementary and Secondary Education – Public School Fund for the fiscal year ending June 30, 2027.

4. Department of Finance and Administration, Alcoholic Beverage Control Division, Medical Marijuana Commission (Christy Bjornson, Katie Hinojosa, Brandon Crawford)

a. Rules Governing the Application for, Issuance, and Renewal of Licenses for Medical Marijuana Cultivation Facilities, Dispensaries, and Processors in Arkansas, 20 CAR pt. 800

DESCRIPTION:

Background and Reason for Proposed Rule Change

Amendment 98 created the Medical Marijuana Commission ("MMC") and directed the MMC to promulgate rules for administering and regulating the issuance of licenses to operate medical marijuana facilities. Amendment 98 also created various restrictions for license ownership. Additional rules are necessary to ensure transparency of license ownership and fairness in any contractual arrangements related to the management of a licensee's business functions. To that end, the MMC has the responsibility of ensuring that management contracts comply with the licensing regulations and to approve or deny them in accordance with Amendment 98, the rules of the commission, and all other relevant Arkansas law. Further, the MMC must ensure these arrangements are not being used to circumvent ownership restrictions.

Summary of the Proposed Rule Change

The proposed rules establish requirements for contractual agreements between a licensee and a separate entity or person for services related to the management of the licensee's functions. The proposed rules require disclosure and prior approval of management contracts and set substantive limitations for the contracts to ensure fairness and balanced bargaining power. The proposed rules are necessary to ensure transparency of financial relationships with licensees and ensure commercially reasonable, arms-length transactions between licensees and management companies.

PUBLIC COMMENT: A public hearing on this rule was held on April 2, 2026. The public comment period expired on the same day. The agency provided this public comment summary:

Comments of Arkansas Cannabis Industry Association (ACIA)

The Arkansas Cannabis Industry Association (ACIA), through its attorney Eli Bauer, raised several written concerns with the management contract rules and reiterated those concerns at the public comment hearing.

First, the ACIA argues the management contract rules are overreaching and materially ambiguous. As an alternative, the ACIA proposes licensees certify in writing annually that the ownership and operational management of a facility is controlled entirely by owners.

Next, the ACIA contends the Commission lacks the authority to enforce the management contract rules as drafted. Citing the "commercially reasonable" standard established by the rules, the ACIA states this term is unclear and left entirely to the Commission's interpretation.

Finally, the ACIA seeks clarity on whether the management contract rules implicate contracts in existence as of the effective date of the rules. The ACIA requested the rules be revised to clearly state that the Commission will not require the initial submission or approval of any management contracts until the occurrence of an event triggering reporting.

Response: Rules of statutory construction, which apply to administrative rules and regulations, require statutes to be given a rational, sensible construction. The "commercially reasonable" standard is unambiguous and specifically defined in the management contract rules.

The standard requires that the contractual agreement further a legitimate business purpose of the parties and that the agreement is sensible, considering the characteristics of the parties. It attempts to ensure neither party faces unreasonable interference or unreasonable disadvantages.

It is true that what is or is not a commercially reasonable arrangement will have to be determined on a case-by-case basis, but this is not unlike many standards found today throughout the legal system. Many agencies utilize standards that acquire meaning through the process of individualized application.

Comments of Attorney Jim Smith

Attorney Jim Smith spoke at the public comment hearing. Mr. Smith referenced the guidance in IRS Revenue Ruling 59-60 as being applicable in examining commercial reasonableness. Mr. Smith contended that Ruling 59-60 states that is in [sic] not possible, in a subjective situation, to address commercial reasonableness objectively.

Mr. Smith also addressed the arms-length requirement for management contracts and argued that management companies will be reluctant to engage in contractual arrangements that can be terminated on a whim.

Finally, Mr. Smith addressed the requirement that shelf-space allotment clauses be commercially reasonable. Mr. Smith pointed out that retail shelf-space allotment is a multibillion dollar business, and argued that a "per se prohibition where it may be totally appropriate in a given situation" is inappropriate.

Response: The purpose of IRS Revenue Ruling 59-60 is to "outline and review in general the approach, methods and factors to be considered in valuing shares of the capital stock of closely held corporations for estate tax and gift tax purposes."

While IRS Revenue Ruling 59-60 does explore fair market value, it emphasizes subjective judgment over rigid formulas and consideration of factors like earnings, book value, dividends, and marketability. The ruling would be useful if this were a legal dispute involving private company stock valuation.

By specifically including consideration of the "characteristics of the parties" in the framework of the "commercially reasonable" standard, the management contract rules already require these contracts be examined on a case-by-case basis, as Mr. Smith requested.

The management contract rules require that either party have the contractual ability to "terminate the contract with reasonable notice." Mr. Smith's contention that the rules require the ability to terminate on a whim is misguided. The rules contain no prohibition on termination damages or conditions and provide latitude for the parties to address arbitrary termination.

Finally, in a scenario where a shelf-space clause is "totally appropriate in a given situation," such a clause would be commercially reasonable and would not violate the arms-length requirement of the management contract rules.

Camille Fleming, an attorney with the Bureau of Legislative Research, asked the following questions:

1. **QUESTION:** 20 CAR § 800-801(a)(1)(B): This subdivision states that all management contracts between licensees and management companies must be disclosed to the commission "upon any change to the contract".

Would this include non-substantive changes, such as the correction of clerical errors? **RESPONSE:** Yes, any change to a management contract must be disclosed.

2.**QUESTION:** 20 CAR § 800-801(a)(1)(C): This subdivision states that all management contracts between licensees and management companies must be disclosed to the commission "upon request of the ABC Administration Director". Is the "ABC Administration Director" the same as the "Director of the Alcoholic Beverage Control Division (also known as the Director of the Alcoholic Beverage Control Enforcement Division)", created in Arkansas Code § 3-2-203, or is this position the same as the "Director of the Alcoholic Beverage Control", created in Arkansas Code § 3-2-202, or is this a third, different position? **RESPONSE:** "ABC Administration Director", "Director of the Alcoholic Beverage Control Division", "The Director of the Alcoholic Beverage Control Enforcement Division" are three distinct positions. Until recently, ABC Administration Director was an open position. That position is now filled, and ABC Administration Director would be the correct contact for reporting a management contract.

3. **QUESTION:** 20 CAR § 800-801(a)(2): This subdivision states that a licensee shall submit information to the commission "prior to the effective date of any management contract". How many days prior to the effective date of the contract must the licensee submit the information to the commission? **RESPONSE:** Given that the Commission must approve any management contract or any change to a management contract, the licensee can submit it any time before the effective date.

4. **QUESTION:** 20 CAR § 800-801(a)(2)(B): This subdivision states that a licensee shall submit to the commission "information detailing any remuneration paid to or to be paid to the management company by the licensee in exchange for the contracted services". Does "remuneration" referred to here only refer to a monetary exchange or does it include the exchange of goods or services as well? **RESPONSE:** 20 CAR § 800-801(a)(2)(A) requires the submission of "the management contract and any related agreements," which would include non-monetary exchanges.

5. **QUESTION:** 20 CAR § 800-801(c)(1): This subdivision states that a licensee shall submit information to the commission "prior to any change to a management contract". Would this include non-substantive changes, such as the correction of clerical errors? **RESPONSE:** Yes, any change to the management contract must be disclosed.

6. **QUESTION:** 20 CAR § 800-801(c)(1): This subdivision states that a licensee shall submit information to the commission "prior to any change to a management contract". How many days prior to the change to the contract must the licensee submit the information? **RESPONSE:** Given that the Commission must approve any management contract or any change to a management contract, the licensee can submit it any time

before the effective date.

7. **QUESTION:** 20 CAR § 800-801(c)(1)(B): This subdivision states that the commission shall notify the licensee of the commission's decision. Is there a deadline for when the commission has to notify the licensee of its decision? **RESPONSE:** The proposed rules do not provide a decision deadline.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated there is no financial impact. The agency also indicated, "The proposed rules would set substantive limitations for and require disclosure of management contracts with medical marijuana licensees."

LEGAL AUTHORIZATION: The Alcoholic Beverage Control Division shall administer and enforce the provisions of Amendment 98, § 24 of the Arkansas Constitution, regarding medical marijuana transporters, distributers, and processors. Ark. Const. amend. 98, § 24(a)(2). The division shall adopt rules regarding oversight requirements, recordkeeping requirements, security requirements, and personnel requirements for transporters, distributers, and processors, along with any other matters necessary to the fair, impartial, stringent, and comprehensive administration of the duties of the division under Amendment 98, § 24. Ark. Const. amend. 98, § 24(h)(2).

5. Department of Health (Craig Smith, Shane David)

a. List of Controlled Substances, 5 CAR pt. 22

DESCRIPTION: The proposed amendments to the List of Controlled Substances are updating and adding substances based on substances identified in Act 934 of 2025 (regarding regulation of consumable hemp and prohibitions on intoxicating hemp), current DEA scheduling of substances, and substances identified of concern in Arkansas.

PUBLIC COMMENT: A public hearing was held on this rule on May 26, 2026. The public comment period expired on May 26, 2026. The agency indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Health administers the Uniform Controlled Substances Act and has authority to add substances to the Controlled Substances List and to delete or reschedule "any substance enumerated in a schedule[.]" Ark. Code Ann. § 5-64-201(a)(1)(A)(i). "The Secretary of the Department of Health shall revise and republish the schedules annually." Ark. Code Ann. § 5-64-216. If a substance is controlled under federal law, the Department "shall similarly control the substance" unless the Secretary objects to inclusion within thirty days of publication in the Federal Register of a final order designating a substance as a controlled substance. Ark. Code Ann. § 5-64-201(d).

This rule implements Act 934 of 2025. The Act, sponsored by Senator Tyler Dees, provided for the regulation of consumable hemp products by the Arkansas Tobacco Control Board, amended the Arkansas law to allow the regulation and purchase of consumable hemp products, and established a directory for consumable hemp manufacturers.

b. **REPEAL Rules Pertaining to Synthetic Marijuana Products, 20 CAR pt. 204**

<u>DESCRIPTION</u>: The substances prohibited by these Rules are listed under Schedule VI. These Rules are redundant and proposed for repeal.

<u>PUBLIC COMMENT</u>: No public hearing was held on this rule. The public comment period expired on June 5, 2026. The agency indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

<u>FINANCIAL IMPACT</u>: The agency indicated that this rule has no financial impact.

<u>LEGAL AUTHORIZATION</u>: "Power is conferred on the State Board of Health to make all necessary and reasonable rules of a general nature for:

> (A) The protection of the public health and safety;
>
> (B) The general amelioration of the sanitary and hygienic conditions within the state;
>
> (C) The suppression and prevention of infectious, contagious, and communicable diseases;
>
> (D) The proper enforcement of quarantine, isolation, and control of such diseases; and
>
> (E) The proper control of chemical exposures that may result in adverse health effects to the public."

Ark. Code Ann. § 20-7-109(a)(1).

6. **Department of Health, Arkansas Psychology Board (Colin Davies, Matt Gilmore)**

a. **Arkansas Psychology Board Rules, 17 CAR pt. 95**

<u>DESCRIPTION</u>:

<u>Proposed Revisions to Current Rules</u>

Per Act 869 of 2025, creates a voluntary registration system for behavior analysts through the Arkansas Psychology Board. While registration is not mandatory, those who choose to register as "registered behavior analysts" must meet national certification standards. The act outlines requirements for initial and biennial renewals, allows temporary and reciprocal registration for qualified out-of-state practitioners, and gives the Board authority to enforce rules and ethics. It also updates the Board's composition to include at least one member with experience or credentials in behavior analysis.

Per Act 433, updates the regulation of psychological professionals by phasing out the independent practice status of *psychological examiners* and introducing a new license category: *licensed psychological practitioner (LPP).* No new psychological examiner licenses will be issued after December 31, 2026, and those licensed after December 31, 2024, cannot practice independently. The LPP license requires a board-approved 60-hour master's degree in health services psychology, 3,000 hours of supervised experience, and passing an exam. LPPs may practice independently, excluding neuropsychological, forensic, and projective personality assessments. Current psychological examiners with independent status may transition to the LPP title without meeting new requirements.

Per Act 434 of 2025, establishes updated guidelines for technicians working under licensed psychologists. Technicians must hold a bachelor's degree (preferably in psychology), complete core psychology coursework, and receive 80 hours of documented training. Their duties are limited to tasks like administering and scoring tests, manualized interventions, and fitness-to-proceed evaluations – excluding higher-level clinical work. Technicians must work under direct supervision, with no more than four per psychologist. Supervisors must be licensed and board approved.

<u>Proposed Revisions to Current Rules After Public Comment Period</u>

The board accepted public comments and changes to sections of the rules regarding supervision of provisionally licensed psychological practitioners. The board created the title and definition for "supervising psychological practitioner", this title will be used for board approved supervisors who are licensed psychological practitioners. These supervisors will oversee the training hours that are required for provisionally licensed psychological practitioners. They will only be able to supervise provisionally licensed psychological practitioners and not provisionally licensed psychologists.

The board also accepted public comments regarding a pathway for licensed psychological examiners wishing to upgrade their license to licensed psychological practitioner. This pathway will require them to pay the application fee, submit an application, and meet the post-degree training requirements.

The board accepted public comments regarding the definition of what a residency is by mirroring the same requirements for psychologists.

The board accepted public comments and made changes based on comments received regarding the clarification of technicians and their role in administering fitness to proceed examinations. The board added language to define the limitations and role of a technician who participates in administering fitness to proceed examinations.

<u>**PUBLIC COMMENT**</u>**:** A public hearing was not held on this matter. The first public comment period expired on March 14, 2026. A second public comment period was held and subsequently expired on June 6, 2026. The agency provided the following public comment summary:

<u>Commenter Name</u>: Danielle Pandika, Arizona State University

COMMENT: Dear Board Members – I am writing to request clarification regarding the Board's interpretation of the proposed changes to the Rules relating to licensing of Licensed Psychological Practitioners. In 17CAR§95-405iA, section iA.d there is a proposed requirement of 1 year in a residence program. Would the Board consider online, synchronous, cohort-based graduate study with regular faculty and peer interaction to satisfy the residence requirement, or is physical presence at the institution required? Thank you very much for your time and clarification.
RESPONSE: Thank you for your public comment and taking the time to read our rules during our public comment period. Regarding the definition of a residence, we have added language to define what it is: residence requires education and training to be completed over the days and weeks of an academic year on campus and provides students access to a core psychology faculty, whose primary time and employment responsibilities are to the educational institution, as well as access to other students matriculated in that program, residency is not intended to be accrued in experiences off campus in which medical or non-psychology services are observed and discussed as a substitute for regular classroom instruction or seminars, and models that use face-to-face contact for short durations throughout a year as a substitute for full-time residency defeat the intended purpose of residency.

<u>Commenter Name</u>: Carl Reddig, Licensee

COMMENT: New Proposed Revision document

Thank you folks for this difficult undertaking. I know considerable time and effort has been involved. My two suggestions are as follows. It is suggested that the entirety of Arkansas Code Annotated 17-97-307 regarding School Psychology Specialists be noted to include the following, "Those persons shall be restricted in their practice to employment within those settings under the purview of the State Board of Education." This is suggested to improve clarity to the public. I have been aware of instances where a school psychology specialist has conducted evaluations, including offering diagnoses, on adults outside of the confines of a school district or other setting not "under the purview of the State Board of Education".

Requirements for licensure as a licensed psychological practitioner

A person licensed as a psych examiner independent before Dec.31,2024 not having to fulfill the requirements for psych practitioner. I am unable to find an explanation of how a LPE-I can make application to be a psych practitioner. It is suggested that such guidance be offered (will it be automatic, need to file a form, new intent to practice, etc.??). Thank you for your attention with these matters. Keep up the good work. **RESPONSE:** Thank you for your public comment and taking the time to read our rules during our public comment period. Regarding your first comment we have been advised by legal counsel that we do not oversee school psychologists as they are licensed under the State Board of Education. If you have seen examples of the issues you have provided, please file a complaint with that board or you may file a complaint with our board as we are a complaint driven board. We can then forward to the Board of Education. Regarding your second public comment, there will be an automatic change that happens for LPE-Is to be grandfathered into the LPP license since they are both independent statuses.

Commenter Name: Serena McKnight, Licensee

COMMENT: Please consider the following comments/suggestions underlined:

Page 1

95-101 Description of Organization

c.1. A. iii – Two psychological examiners or psychological practitioners engaged in full-time practice of psychology. **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will not be making this change due to legal counsel advising that changing the make-up of the board would require a separate piece of legislation.

c.1.B – Each psychologist, psychological practitioner, and psychological examiner must have been licensed to practice psychology in Arkansas for at least five years immediately preceding appointment to the board. **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will not be making this change due to legal counsel advising that changing the make-up of the board would require a separate piece of legislation.

Page 3

95-103 Administration of the organization.

b.5.A.ii – Level of licensure, whether psychologist, psychological practitioner, or psychological examiner; **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will be making this change to add psychological practitioner to section 17 CAR 95-103, regarding the types of licenses we offer.

95-105 Definitions.

a.3 – "Effective communication." The psychologist, psychological practitioner, or psychological examiner providing therapeutic services must maintain a relationship with a qualified physician for the diagnosis and/or treatment of medical problems; **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will be making this change to add psychological practitioner to section 17 CAR 95-105. To include them in our definition of "effective communication".

Page 4

95-105 Definitions.

a. 9 "Supervising Psychological Practitioner." A Licensed Psychological Practitioner holding a valid and current license whose training and experience are appropriate for supervision in the areas of the supervised practice and who abides by this part. (see 17 CAR § 95-501 et seq.) **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-105. We will include the definition of "supervising psychological practitioner" so that provisionally licensed psychological practitioners can receive supervision under them.

Page 13

95-403 Requirements for licensure as a psychological examiner.

Change in status.

Aa.f.2 Psychological Examiners requesting a change to psychological practitioner licensure must:

1. Submit the appropriate application and documentation materials;

2. Pay the application fee; and

3. Meet all the post-degree supervision requirements for licensure as a psychological practitioner (see 17 CAR § 95-405 b.1.e). **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-403. The change will allow licensed psychological examiners a pathway for independent status that was previously in place for them when we offered the licensed psychological examiner-independent licensure. Currently, the rules do not provide a pathway for current, non-independent LPEs to obtain independent licensure as a Licensed Psychological Practitioner.

Page 26

95-407 Application procedures for licensure (all applicants).

f.1.B.i – Supervision of a supervising psychologist for doctoral/master-level applicants or a supervising psychological practitioner for master-level applicants; and **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-407. We will include the distinction that supervising psychologists can supervise provisionally licensed psychologist and provisionally licensed psychological practitioners and supervising psychological practitioners can only supervise provisionally licensed psychological practitioners.

Page 31

95-502 General Responsibilities in the supervisory arrangement.

b.3.B – The frequency and times of supervisory sessions and specific areas to be covered, i.e., individual/group psychotherapy, assessments, tests administered, etc., will be determined by the supervising psychologist <u>or psychological practitioner</u>; **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-502 to include psychological practitioners.

Page 32

95-502 General Responsibilities in the supervisory arrangement.

Multiple sections where <u>supervising psychological practitioner</u> can be added. **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-502, and we will include supervising psychological practitioners behind the terms supervising psychologist.

Page 33

95-503 Requirements of supervision.

a.1.B – The responsibility of the <u>psychologist</u> supervisor, both site and academic. **RESPONSE:** Thank you for your comment. It was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-503.

Page 35

95-503 Requirements of supervision.

c.1.A – All services provided by a provisionally licensed applicant must be supervised by a <u>supervising</u> psychologist <u>or psychological practitioner</u>; unless they are a candidate for licensure via reciprocity.
RESPONSE: Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-503 to include psychological practitioner.

c.1.B. The licensed psychologist or <u>psychological practitioner</u> who provides supervision for the applicant will be clinically and professionally responsible for the work of the supervisee. **RESPONSE:** Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-503 to include psychological practitioner.

Page 36

95-503 Requirements of supervision.

Multiple sections where supervising psychological practitioner can be added. **RESPONSE:** Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-503 to include supervising psychological practitioner behind the term supervising psychologist.

Page 38

95-503 Requirements of supervision.

f.1.A.iii – As written, this seems in conflict with the section that is referenced in Arkansas Code Annotated § 5-2-301 which indicates that these evaluations are completed by an “expert.” It also seems in conflict with Arkansas Code Annotated § 17-97-102 which defines Fitness to proceed evaluations as “Forensic psychological assessment.” Can this section be clarified that technicians can only perform specific sections of these types of evaluations? They are not qualified to perform the duties of an expert or forensic psychologist. Without clarification, this could be interpreted in a way that could cause harm to the public.
RESPONSE: Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-503 regarding technicians. We have included language that limits what a technician can do during a fitness to proceed evaluation due to them only being a bachelor level license.

Page 40

95-605 Provisional license.

b – A provisional license holder is entitled to practice psychology under supervision of a psychologist or psychological practitioner to meet the requirements for issuance of a license under Arkansas Code Annotated § 17-97-305. **RESPONSE:** Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-503 regarding technicians. We have included language that limits what a technician can do during a fitness to proceed evaluation due to them only being a bachelor level licensee and not having the appropriate training or licensure that a psychologist/examiner/psychological practitioner has.

f.3 – I’m not sure what this statement pertains to under this section discussing interns. **RESPONSE:** Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-605, that was not meant to be placed in that section and it has been removed.

Page 42

95-606 Provisional license application.

2.c – ...equivalent to a doctoral/master's degree in psychology...
RESPONSE: Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-606, we have included master's degree.

Page 45

95-608 Employment of technicians

b.7. iii – Same issue as Page 38. **RESPONSE:** Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-503 regarding technicians. We have included language that limits what a technician can do during a fitness to proceed evaluation due to them only being a bachelor level licensee and not having the appropriate training or licensure that a psychologist/examiner/psychological practitioner has.

Page 72-73

95-1701 Minimum standards for establishing psychologist/psychological practitioners/psychological examiner-patient/client relationships. Multiple sections where psychological practitioner can be added.
RESPONSE: Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-1701. We have included psychological practitioner throughout the section where is lists licensees.

95-1702 Requirement for all services provided by providers using telepsychology.

b.11.A – Psychologists, psychological practitioners, and psychological examiners may use telepsychology to provide group therapy.
RESPONSE: Thank you for your comment, it was reviewed at the last board meeting and we will be making this change to section 17 CAR 95-1702. We have included psychological practitioners in this section of our rules.

Commenter Name: Daniel Wysocki, Licensee

COMMENT: Greetings, my name is Daniel Wysocki and I practice psychology under AR Psychology Board License 13-08EI. I have a serious concern that the proposed 2026 Arkansas Psychology Board rules directly conflict with Act 433 of 2025 by maintaining a doctoral-only supervisory standard that contradicts new state law. Act 433 explicitly grants Licensed Psychological Practitioners (LPPs) the privilege to "supervise provisionally licensed master's level clinicians". However, the Board's proposed rules under 17 CAR § 95-503 and 17 CAR § 95-407 continue to mandate that all such supervision be conducted by a "qualified psychologist". Because the Board's definition of a "qualified psychologist" is strictly limited to individuals with a doctorate, these rules effectively nullify the independent supervisory authority granted to master's-level LPPs by the General Assembly. This creates a regulatory environment that seems to go directly against the legislative intent and imposes a doctoral-only requirement where the law no longer demands one. With the clear mandate in Act 433 stating that LPPs may supervise provisionally licensed master's level clinicians, how does the Board justify maintaining a 'qualified psychologist' doctoral requirement that effectively prohibits these licensees from exercising their statutory right to supervise or will this be updated to accurately reflect the new Arkansas law? I am concerned about the possibility of the board using its rulemaking power to effectively veto or ignore a privilege that the Arkansas legislature has granted. I look forward to your response. **RESPONSE:** Thank you for your public comment on our rules and taking the time to read through them during our public comment period. We have addressed the supervision of licensed psychological practitioners during our last board meeting and have made the effective changes to ensure that a supervising licensed psychological practitioner can supervise provisionally licensed psychological practitioners.

<u>Commenter Name</u>: Art Gillaspy, Licensee

COMMENT: Dear Arkansas Psychology Board, Please consider the following comments and suggestions on the proposed Rules.

Subpart 4. Qualifications of Applicants for Licensure

In the section, Requirements for licensure as a psychological examiner. – I do not see any provision for individuals who obtained their LPE in the last few years to move toward independent status or to become licensed as an LPP. There is a section, (f) Change in status, for LPEs requesting a change to psychologists license, but not one for LPEs seeking change in status to LPP. There needs to be clear language that allows recently licensed LPE to have a pathway to independent practice as LPPs. **RESPONSE:** This issue has been addressed by another public comment by Serena McKnight and we have included language for a psychological examiner to become licensed as a psychological practitioner.

Suggested language (underlined): In the section on Requirements for licensure as a licensed psychological practitioner,

(C3) A person who was previously licensed as a psychological examiner and granted the privilege to practice independently by the board on or before December 31. 2024. is not required to fulfill the requirements under the subdivision of this section to be licensed under this section. <u>A person who was licensed as a psychological examiner after 2023 but not yet granted independent status should be eligible to seek independent status as a provisionally licensed psychological practitioner.</u> **RESPONSE:** Thank you for your public comment, we have accepted your proposed language to our rules and we have made the change.

In the section titled "Requirements for licensure as a licensed psychological practitioner." – Please clarify that item (d) "At least one (1) year in a residence program" refers to the need for the graduate program to include at least one year on campus, in residence. The intent of this item in the legislation was to ensure that individuals from fully online programs would not be eligible for licensure as an LPP. Although the term "residence program" is straight from the statute, the Rules should clarify that the graduate program must include at least one year in residence. **RESPONSE:** Thank you for your public comment, we have included the definition of what a residence program is by copying the definition from our section of the rules regarding licensure for a psychologist so it is the same throughout our rules.

In this same section, I encourage the Board to exercise its discretion to consider individuals who complete a NASP-accredited school psychology program as a satisfactory substitute for training in lieu of the requirements of this section. In such cases, the statement of intent should be limited to those areas in which the individual demonstrates coursework, training, and supervised experience. **RESPONSE:** Thank you for your public comment. Unfortunately, the Board can not endorse any type of one program for licensure. All programs must meet our requirements in order for an individual to become licensed.

In the section on Requirements for supervision. (c) Supervision of provisional licensure applicants. – This section should clearly state that provisionally licensed psychological practitioners can be licensed by fully licensed psychological practitioners, who are approved supervisors. Supervision of provisionally licensed psychological practitioners is clearly within the scope of practice of LPPs, and the law intended to allow LPPs to provide supervision for provisionally licensed psychological practitioners. Thus, there should be a clear statement that LPPs can be supervisors for those in the provisional period. I suggest that all references to "supervising psychologists" be changed to "supervising psychologists or supervising psychological practitioners" to indicate that LPPs may supervise provisionally licensed psychological practitioners. Of course, it should also be clear that LPPs would not be allowed to serve as supervisors for provisionally licensed psychologists. **RESPONSE:** Thank you for your public comment. We have addressed this issue in another public comment by Serena McKnight and we have made the effective change for supervising psychological practitioners to be supervisors for only provisionally licensed psychological practitioners.

Same section – the Rules should also address the process for an LPP to obtain supervisory statute. This should include appropriate coursework in supervision and references that speak to competence in supervision. **RESPONSE:** Thank you for your public comment. We have addressed this issue and it will be the same for a psychologist applying for supervisor status. A licensed psychological practitioner applying for supervisor status must have three letters of reference and show coursework/training in supervision.

In the section on Provisional licensure (pages 40-41). – Language in this section also needs to change to clearly indicate that appropriately credentialed LPPs can supervise provisionally licensed LPPs. **RESPONSE:** Thank you for your public comment. We have addressed this issue in another public comment that was made and a supervising licensed psychological practitioner can supervise a provisionally licensed psychological practitioner.

Same section. – What is the purpose or meaning of the following item? **RESPONSE:** Thank you for your public comment. This was an error. That section should not have been there and it has been corrected.

(3) Is in the process of obtaining a license as a licensed psychological practitioner according to.17 CAR § 95-405... What does this refer to? Please clarify. **RESPONSE:** Thank you for your public comment. This was an error. That section should not have been there and it has been corrected.

In the section on Technicians – part of the stated scope of practice from Act 434 was "administration of fitness-to-proceed examinations ..." however, it should be clearly stated in the Rules (and to the public) that this does not include conducting clinical interviews as part of those examinations. Act 434 explicitly limited the scope of technicians to the administration of tests selected by a psychologist. I ask that the Rules clearly define the role technicians can play in the "administration of fitness-to-proceed examinations," as only administering tests and not conducting interviews with clients. Again, please clarify. **RESPONSE:** Thank you for your public comment regarding technicians and fitness to proceed evaluations in section 95-503 Requirements of Supervision. We have included language with limitations on what a technician can do during a fitness to proceed evaluation.

Grant Wise, an attorney with the Bureau of Legislative Research, asked the following questions and was provided with the following responses:

1. <u>17 CAR § 95-101(c)(1)(A)(iv)</u> –

    a. This subdivision seems to be based on Arkansas Code § 17-97-201(a)(3)(D), which provides that at least one (1) of the nine (9) members appointed to the board under subdivision (a)(2) of the statute "shall be a licensed psychologist who is a board certified behavior analyst or qualified behavior analyst or has a background and experience providing behavior analysis services." The rule's language appears to differ from the statute by making the behavior analyst a part of the nine (9) member membership requirement enumerated in Arkansas Code § 17-97-201(a)(2). Is there a reason that the rule appears to differ from the statute? **RESPONSE:** We agree with this comment; we have modified the language so that the new board member requirement fits into the four (4) psychologists listed in (C)(ii). There will still only be nine board members that can serve on the board.

b. I just wanted to mention that it also appears that 17 CAR § 95-101(c)(1)(A), if trying to track the statute, may be missing the two persons outlined in Arkansas Code § 17-97-201(a)(2)(D). **RESPONSE:** We agree with this comment; we have modified the language so that the new board member requirement fits into the four (4) psychologists listed in (C)(ii). There will still only be nine board members that can serve on the board.

2. 17 CAR § 95-405(b)(3) – This subdivision states that those whom this provision is applicable to are not required to fulfill the requirements "under the subdivision of this section." Which specific subdivision of the section is this provision referring to? **RESPONSE:** We agree with this comment. The language has been changed and "under this subdivision of this section" has been removed and replaced with 17 CAR § 95-405 to be more specific in what we are referring to.

3. 17 CAR § 95-405(c)(2)(F) – This subdivision seems premised on Arkansas Code § 17-93-313(c)(2)(F), which provides that practitioners may practice supervising provisionally licensed master's level clinicians in the areas listed in "subdivisions (c)(2)(A) – (E) of this section." The rule provides "supervising provisionally licensed master's level clinicians can be found in the supervision section of the rules." For clarification, which specific section is the supervision section of the rules? **RESPONSE:** Supervising any provisional license can be found under Subpart 5. Supervision and that is what we are basing our change off of to match Act 433 of 2025.

4. 17 CAR § 95-503(e)(2) – This subdivision provides that psychologists supervising technicians shall submit a Supervision Report for each psychology technician employed each year with the renewal of the technician's registration in the form and format prescribing minimum requirements. Subdivisions (E) – (H) concern eighty (80) training hours required for technicians. It appears from the rule that these hours are to be included in each year's Supervision Report. Are technicians meant to receive these training hours every year? **RESPONSE:** Based on discussions with the Board and legal counsel we have come to the conclusion that these hours must be completed prior to registration and only have to be completed for first time registrants.

5. 17 CAR § 95-608(b)(7) – In subdivision (b)(7)(A) of this section, should "or" be "of" as in Arkansas Code § 17-97-401(a)(2)(A)(i)? **RESPONSE:** We agree with this comment and have made the change from "of" to "or".

6. 17 CAR § 95-608(e)(3) – This subdivision references "the following requirement" but nothing follows. What is the requirement? **RESPONSE:** We agree with this comment and have added "the requirement of hours in Arkansas Code Annotated § 17-97-402(d)." for the requirement.

7. 17 CAR § 95-608(g)(1)(B) – This subdivision provides that all technicians shall complete a criminal background check as described for licensed psychologists under Arkansas Code § 17-97-102. Is this the correct statute? If so, in which specific provision of that section can this be found? **RESPONSE:** We agree with this comment and have made the correct change to match the correct statue which is Arkansas Code § 17-97-312.

8. 17 CAR § 95-902(c) – This subsection references a "fee established by the Arkansas Psychology Board." Arkansas Code § 25-15-105(b)(2) provides that an agency assessing or imposing a fee shall promulgate the fee or penalty by rule unless the specific amount of fee or penalty is set by statute. What is the amount of the fee? Is it set out anywhere else in the rules? **RESPONSE:** In order to be consistent with other established fees we are proposing with this rule to set the fee at $50 but that will be reduced due to Act 114 of 2023. Once these rules have been approved, the reduced fee price will affect the $50 fee.

9. 17 CAR § 95-902(d) – Just so I am clear, to whom is this subdivision applicable? **RESPONSE:** This subdivision is only applicable to individuals wishing to practice temporarily in the State of Arkansas as a behavior analyst. The reason this section was added is because of language due to Act 869 of 2025.

10. 17 CAR § 95-903(c)(3) – This subdivision appears to have the same language as 17 CAR § 95-902(d). Was it intended to be in both locations? **RESPONSE:** Yes, it was intended to be placed in that section as well, the section you are referring to has to deal with reciprocity for our current licenses. If we decide to enter into a reciprocity agreement with another state, we will already have the language in place to support the reciprocity agreement.

11. 17 CAR § 95-1205 – This section appears to reference fees with amounts that are not specified. Arkansas Code § 25-15-105(b)(2) provides that an agency assessing or imposing a fee shall promulgate the fee or penalty by rule unless the specific amount of fee or penalty is set by statute. What are the specific amounts of these fees? Are they set out elsewhere in the rules? **RESPONSE:** The language in Act 869 of 2025 says "the fee shall not exceed $150". In order to stay consistent with our current fees, we propose in this rule the fee price to be set at $150 but the language in Act 114 of 2023 will affect this fee as well and it will be reduced.

12. 17 CAR § 95-1206(a) – The proposed rule states that the board shall charge an additional one hundred-dollar fee for delinquent license renewal and "registry renewal". In order to assess a fee or penalty, Arkansas Code § 25-15-105(b) requires the agency to have specific statutory authority. On which authority does the board rely to assess this fee? **RESPONSE:** The board is being consistent with 17-97-204(c), which gives the board the

ability to charge a late renewal fee set at $100. This is for only those individuals that do not renew on time during our renewal period.

13. 17 CAR § 95-1301(c) – This subsection provides that the renewal fee for a behavioral analyst shall not exceed one hundred fifty dollars ($150). How much will the fee be exactly? **RESPONSE:** That is correct, the fee shall not exceed $150 as stated in the law, The Board is proposing the set fee to be $150.

14. 17 CAR § 95-1302(d) – This subsection provides that behavioral analysts shall renew during the "periods of July 1st – June 30th". What exactly is meant by this as this seems to be one period? **RESPONSE:** We agree with the comment as this was a typo. The language should have said "May 1st-June 30th". This has been corrected.

15. 17 CAR § 95-1501(c)(1) – This subdivision provides that the board may adopt "the Ethics Code for Behavior Analysts issued by the Behavior Analyst Certification Board, Inc.," and "the Code of Ethics issued by the Qualified Applied Behavior Analysis Credentialing Board." Is the board adopting either of these ethics codes? **RESPONSE:** We agree with this comment. We will be adopting both of these ethics codes and we have made the change by using the word "adopts". We are adopting these ethics codes so we have a basis to follow when we receive complaints.

Upon receiving a revised version of the rules, the following follow-up questions were asked:

1. 17 CAR § 95-105(9)(B)(i) – Is there a reason the rule refers to "mental disorders" where Arkansas Code § 17-97-102(a)(2)(B)(i) references "mental health disorders"? **RESPONSE:** We agree with this change. We will make the change from "mental disorders" to "mental health disorders".

2. 17 CAR § 95-105(11) –

   a. Does this subsection create a new licensure? **RESPONSE:** This is not a new license; it is a role that was needed for licensed psychological practitioners to become supervised. It is the same as a "supervising psychologist."

   b. Is this subsection missing a word after 'Practitioner'"? **RESPONSE:** We agree with this change. The word "is" will be added.

   c. Just so I am clear, can you please list the types of licenses that will now be offered by the board? **RESPONSE:** We will offer provisionally licensed psychological examiner, fully licensed psychological examiner, provisionally licensed psychological practitioner, fully licensed psychological practitioner, provisionally licensed psychologist and fully licensed psychologist as license types. Certifications will be given to psychological technicians and behavioral analysts.

3. 17 CAR § 95-403 – The catchline for this section includes the term "optional". Is registration optional where Arkansas Code § 17-97-602 defines "registered behavioral analyst" as an individual "who is registered to practice...by the Arkansas Psychology Board"? **RESPONSE:** We agree with this change. The new title of this section will be "Requirements for Certification as a Registered Behavioral Analyst."

4. 17 CAR § 95-405(A)(3) – This provision provides that someone licensed as a psychological examiner after December 31, 2023, but not yet granted independent status, "should" be eligible to seek independent status as a provisionally licensed psychological practitioner. Under what circumstances does the board contemplate that a licensed psychological examiner not yet granted independent status would not be eligible to seek independent status as a provisionally licensed psychological practitioner? **RESPONSE:** We agree with this change. We will make the change from "should" to "is".

5. 17 CAR § 95-405(A)(5)(F) – The rule provides that the board can issue a provisional license to a person completing the requirements of the section, without limiting which subsections or subdivisions; however, Arkansas Code § 17-97-313(d) on which the rule appears based limits the provisions to only certain ones in the statute. Is there a reason the rule seemingly includes them all? **RESPONSE:** We agree with this comment. The language will be changed to "Arkansas Code 17-91-313 (b)(1)(A)(i) and (b)(1)(B)(E)".

6. 17 CAR § 95-407(e)(1) – The proposed rules added sections and renumbered the existing sections; however, the new sections when codified will be placed at the end of the subpart and the existing sections will retain their original numbering. Thus, proposed 17 CAR § 95-403 will actually be 17 CAR § 95-407, Requirements for certification and optional registry as a behavioral analyst, and 17 CAR § 95-405 will actually be 17 CAR § 95-408, Requirements for licensure as a licensed psychological practitioner. With that in mind, what will the references in subsection (e)(1) on pg.31 be? Would they be "The coursework required in 17 CAR § 95-403 [Requirements for licensure as a psychological examiner], 17 CAR § 95-404 [Requirements for licensure as a psychologist], and 17 CAR § 95-408 [Requirement for licensure as a licensed psychological practitioner] must be documented in the application"? **RESPONSE:** We agree with this comment. The new sections will be the ones that were mentioned in your comment.

7. 17 CAR § 95-408(a)(3) – Is 17 CAR § 95-902 the correct reference following updates to the rule? **RESPONSE:** Yes, based on the fact that section has to deal with reciprocity for behavioral analysts.

8. 17 CAR § 95-503(f)(1)(C) – This provision tracks Arkansas Code § 17-97-401(a)(2)(A) but references an "agreement that the individuals who are licensed as technicians have limitations" as specified in the rule. So that I

am clear, who are the parties to the "agreement" referenced in the parenthetical? **RESPONSE:** Agreement will be based with the Board, supervisor, and technician.

9. 17 CAR § 95-603(b)(2) – The rule appears premised on Arkansas Code § 17-97-603(b)(2); is there a reason the rule cites to specific rule provisions rather than the Arkansas Behavior Analyst Registration Act, Arkansas Code § 17-97-601 et seq., which is the subchapter that appears to be referenced in the statute? **RESPONSE:** We agree with this comment. We will change the language to say, "Arkansas Code 17-97-603 (b)(2)".

10. 17 CAR § 95-608(b)(7)(C) – The rule cites to "under CAR under § 5-2-301 et seq." Is it one, the other, or both? **RESPONSE:** We agree with this change. It should read as "under CAR § 5-2-301 et seq".

11. 17 CAR § 95-608(b)(7)(C) – This provision seems premised on Arkansas Code § 17-97-401(a)(2)(A)(iii), which references Arkansas Code § 5-2-301 et seq., while the rule appears to attribute this citation to both the CAR and the statute. Is there a reason for this difference? **RESPONSE:** We agree with this comment. The change will be made to remove "CAR" and replace it with "Arkansas Code 17-97-401 (a)(2)(A)(iii)".

12. 17 CAR § 95-608(b)(7)(C) – This provision tracks Arkansas Code § 17-97-401(a)(2)(A) but references an "agreement that the individuals who are licensed as technicians have limitations listed in 17 CAR § 95-503 (f) requirements of technicians (2)(A)-(F))" in a parenthetical. So that I am clear, who are the parties to the "agreement" referenced in the parenthetical? **RESPONSE:** Agreement will be based with the Board, supervisor, and technician.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rule has a financial impact. The agency states that the estimated cost by fiscal year to any private individual, private entity, or private business subject to the amended rule is $110.00 for the current fiscal year and $210.00 for the next fiscal year, explaining:

> Act 869 of 2025 creates an optional registry with application and renewal fees being constant with our current fees. Act 434 of 2025 redefines our current technician certification to expand scope of practice. This act requires an initial application with $10 fee with an ongoing annual registration and $10 fee. Act 433 of 2025 redefines our current Master Level license to be concurrent with what is being offered in master programs. There will be no changes to fees.

LEGAL AUTHORIZATION: The Arkansas Psychology Board shall from time to time adopt rules that comply with national guidelines and standards as it may deem necessary for the performance of its duties. *See* Arkansas Code § 17-97-203(3). Pursuant to Arkansas Code 17-97-303(c), the board shall apply through its rules the qualifications of supervising psychologists and the restrictions and reporting requirements for supervision so as to implement the intent of Arkansas Code Title 17, Chapter 97, concerning psychologists and psychological examiners, without restricting the professional integrity of the psychological examiner and psychologist or the ultimate responsibility of the supervising psychologist.

The board shall further administer the provisions of the Arkansas Behavior Analyst Registration Act, Arkansas Code § 17-97-601 et seq., and may adopt rules that are reasonable and necessary to implement the provisions of the Act. *See* Arkansas Code § 17-97-608(b). Pursuant to Arkansas Code § 17-97-308(a), the board may adopt and enforce rules requiring every person having a license to practice to pay an annual registration fee in a sum to be fixed by the board.

The proposed rule implements Act 433 of 2025, sponsored by Representative Lee Johnson, which authorized a licensed psychological practitioner to practice independently in Arkansas and removed the independent practice privileges from psychological examiners, as well as Act 434 of 2025, also sponsored by Representative Johnson, which removed the limitation of the practice of neuropsychology from technicians employed by psychologists and allowed psychology technicians to be employed by psychologists. The proposed rule also implements Act 869 of 2025, sponsored by Representative Wade Andrews, which created the Arkansas Behavior Analyst Registration Act and included qualified behavior analysts under the Arkansas Behavior Analyst Registration Act.

7. Department of Health, Arkansas State Board of Acupuncture and Related Techniques (Russell Burns, Matt Gilmore)

a. Rules of the Arkansas State Board of Acupuncture and Related Techniques, 17 CAR pt. 170

DESCRIPTION:

Background

Pursuant to Arkansas Code § 17-102-206(b)(5)(A), the Arkansas State Board of Acupuncture and Related Techniques has the authority to adopt, publish, and, from time to time, revise rules consistent with the law as may be necessary to enable the Arkansas State Board of Acupuncture and Related Techniques to carry into effect the provisions of Title 17, Chapter 102 of the Arkansas Code.

Proposed Revisions to Current Rules

– Per Act 141 of 2025, the proposed rule amends the board's current rule to allow a healthcare provider to create, maintain, transmit, receive, and store medical records in an electronic format or written format;

– Per Arkansas Code § 17-102-105, the proposed rule updates language concerning required curriculum for licensure;

– Per Arkansas Code § 17-102-305, the proposed rule updates language concerning required testing for licensure;

– Per Arkansas Code § 25-15-218, the proposed rule updates and clarifies language to reflect the CAR format; and

– The Arkansas State Board of Acupuncture and Related Techniques is requesting to amend the board's rules to reflect a name change to the agency that administers licensure testing and the name of one (1) of the test certifications.

PUBLIC COMMENT: A public hearing was not held for this matter. The public comment period expired March 10, 2026. A second public comment period was held and subsequently expired on May 5, 2026. The agency has indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency has indicated that the proposed rule has no financial impact.

LEGAL AUTHORIZATION: The Arkansas State Board of Acupuncture and Related Techniques is authorized to adopt, publish, and, from time to time, revise rules consistent with the law as may be necessary to enable the board to carry into effect the provisions of the Arkansas Acupuncture Practices Act, Arkansas Code § 17-102-101 et seq. *See* Arkansas Code § 17-102-206(b)(5)(B).

The proposed rule implements Act 141 of 2025, sponsored by Senator Justin Boyd, which permits healthcare providers to maintain medical records in an electronic format.

8. Department of Health, Arkansas State Medical Board (Matt Gilmore)

a. Arkansas State Medical Board Rules, Physician and Physician Assistant Delegation Rule, 17 CAR § 140-2501 et seq.

DESCRIPTION: The Department of Health, Arkansas State Medical Board proposes amendments to its Physician and Physician Assistant Delegation Rule. The proposed amendments amend delegation authority to include physician assistants per Act 437 of 2025.

PUBLIC COMMENT: A public hearing was not held on this matter. The public comment period expired March 20, 2026. A second public comment period was held and subsequently expired on June 13, 2026. The agency indicated it received no public comments.

Grant Wise, an attorney with the Bureau of Legislative Research, asked the following questions and was provided with the following responses:

1. 17 CAR § 140-2502(5) – This subdivision contains a definition for "physician assistant" and describes it as "an individual licensed by the Arkansas State Medical Board to practice medicine in the State of Arkansas," which appears to be the same definition as physician in this section. This definition does not appear to match what is found in Arkansas Code § 17-105-101(3)(A). Is there a reason? **RESPONSE:** The proposed language was meant to mirror the language already in use in 17 CAR § 140-2502. Upon review by the Board attorneys at the Arkansas Attorney General's office, it was decided to change the language to match the statute. This required an additional public comment period. No public comments were received during the additional public comment period.

2. 17 CAR § 140-2506(2) – This subsection appears to contain language that was repealed by Act 437 of 2025 § 1 (pages 2, lines 19-20). Is there a reason? **RESPONSE:** Act 437 of 2025 § 1 (page 2, lines 19-20) states the Board shall not adopt rules that "authorize an individual to whom a medical practice is delegated to delegate the performance of that practice to another individual" has stricken the quoted language. Thereby striking this language removes the prohibition on the Arkansas Medical Board (ASMB) from drafting rules that allow the delegation of the performance of that practice. Thus, following Act 437 of 2025 the ASMB now has the discretion to make a rule that allows or disallows the delegation of authority. In 17 CAR § 140-2506(2) the ASMB is only restricting the delegation of delegated practices involving unlicensed persons. For example, a physician assistant may delegate a particular medical practice to an unlicensed person, but the rule prohibits that unlicensed person from delegating the task to a third person. A physician assistant has authority to delegate with that rule which is consistent with the language of Act 437 which removed the prohibition against delegation.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated this rule has no financial impact.

LEGAL AUTHORIZATION: A physician assistant may delegate certain tasks as authorized under Arkansas Code § 17-95-208 and the rules of the Arkansas State Medical Board. *See* Arkansas Code § 17-105-107(e). Arkansas Code § 17-95-208(a) provides that the board shall adopt rules that establish standards to be met and procedures to be followed by a physician or a physician assistant with respect to the delegation of the performance of medical practices to a qualified and properly trained employee who is not licensed or otherwise specifically authorized by the Arkansas Code to perform the practice. The rules adopted under Arkansas Code § 17-95-208(a) shall provide that the delegating physician or a physician assistant remains responsible for the acts of the employee performing the delegated practice; the employee performing the delegated practice shall not be represented to the public as a licensed physician, licensed nurse, licensed physician's assistant, or other licensed healthcare provider; and medical practices delegated under the statute shall be performed under the supervision of the physician or physician assistant. *See* Arkansas Code § 17-95-208(b).

Rules adopted regarding the delegation of the administration of drugs shall provide for the delegated administration of drugs only within the physical boundaries of the office in which the delegating physician or physician assistant practices; evaluation of whether delegation is appropriate according to the acuity of the patient involved; training and competency requirements that shall be met by the person administering the drugs; and other standards and procedures the board considers relevant. *See* Arkansas Code § 17-95-208(d). Further authority for the rulemaking can be found in Arkansas Code § 17-105-118, which provides that the Arkansas State Medical Board may adopt rules that are reasonable and necessary to implement the provisions of Arkansas Code Title 17, Chapter 105, concerning physician assistants.

The proposed rule implements Act 437 of 2025, sponsored by Senator Clint Penzo, which authorizes a physician assistant to delegate certain tasks.

9. **Department of Human Services, Division of Aging, Adult, and Behavioral Health Services (Jay Hill, Debora Inman)**

a. **Updates to the Personal Care and Arkansas Independent Assessment Provider Manuals (Concerning 20 CAR pts. 607, 634)**

<u>DESCRIPTION</u>:

<u>Statement of Necessity</u>

This rule streamlines the Personal Care (PC) Medicaid Provider Manual and Arkansas Independent Assessment (ARIA) Medicaid Provider Manual. The resulting changes make the manuals easier to understand and use and result in significant cost savings. This rule also implements Acts 625 and 853 of the 2025 session. Act 625 mandates adoption of an abbreviated independent assessment process for certain beneficiaries enrolled in a risk-based provider organization. Act 853 moved private care agency certification to the Department of Health.

The PC manual currently contains information that is beyond the scope of State Plan Personal Care (SPPC). This rule repeals the current PC manual and issues a new, simplified, and streamlined manual to include only information regarding SPPC, as opposed to services contained in waivers to the state plan. These changes dispel confusion among overlapping programs, waivers, and policies, as well as better describe the parameters of SPPC. All removed information has been cross-referenced and linked to other program manuals to ensure availability of services. The rule also separates services for adults from services for those under twenty-one, and the repeal implements Act 853, noted above.

The ARIA manual currently contains information on how to administer independent assessments using the standardized ARIA tool to determine functional eligibility for Home and Community Based Services (HCBS) waiver/1915 state plan optional programs. While an independent assessment is mandatory to determine the functional need for waiver/1915 benefits, a standardized assessment tool (like ARIA) is not required (see 42 CFR Section 441.720) for SPPC. Accordingly, this rule removes the personal care section from the ARIA manual for consistency with the changes summarized below and confirms that use of the ARIA tool is not required.

The Personal Care Medicaid Provider Manual outlines the new streamlined process for evaluation review to SPPC, replacing the ARIA for determining eligibility. The new Medical Eligibility Review process for SPPC will be operated by the same vendor that operates the ARIA at a much lower cost. It will use claims data to verify the requestor's medical condition/diagnosis on file related to a physical impairment that creates barriers to Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) before approving the beneficiary for SPPC. The full process is outlined in the updated Personal Care Medicaid Provider Manual. Further, the rule changes the prior authorization (PA) time period from six (6) months to one (1) year. These two revisions will result in lower assessment costs and PA costs.

The other change being made to the ARIA Manual is the addition of explicit sections that describe how to administer an independent assessment using the standardized ARIA tool for Arkansas' aging waivers (ARChoices, Living Choices Assisted Living, and Program of All-Inclusive Care for the Elderly (PACE)). This is a needed update of the ARIA Manual to include information on how the ARIA is utilized for those aging waivers. These processes are already in practice but were not previously included in this manual.

Summary of Changes

Personal Care Manual:

• Repeals the currently promulgated Personal Care Medicaid Manual and creates a new version;

• Streamlines the manual to focus on stand-alone SPPC;

• Transitions away from the ARIA tool as the medical and functional assessment test for SPPC and replaces it with the streamlined, lower-cost evaluation referral which is a Medical Eligibility Review process performed by the DHS-designated vendor that already performs the ARIA;

• Institutes a standardized format for SPPC functional assessments and treatment plans across personal care providers, required to be completed by personal care registered nurses;

• Lengthens time for PAs and Extensions of Benefits (EoB) from six (6) months to twelve (12) months;

• Establishes that PAs will remain in place for all populations receiving SPPC Services;

• Clarifies that the sixty-four (64) hours per month service cap will remain, but that youths may receive over sixty-four (>64) hours per month with EOB;

• Updates processes to implement the following: (1) the Evaluation Referral for SPPC is conducted by Optum through a Medical Eligibility Review to approve medical necessity for SPPC based on medical diagnosis/condition; (2) a registered nurse with the personal care provider will conduct an in-person assessment of the beneficiary’s functional needs utilizing a DHS-approved tool; (3) require all forms be submitted for prior authorization.

ARIA Manual

• Removes reference to SPPC in § 201.000;

• Adds new sections regarding assessments and Tier Logic Tables for the ARChoices (§ 230.000 et seq.), Living Choices Assisted Living (§ 240.000 et seq.), and PACE (§ 250.000 et seq.). Note: The new sections explain the independent assessment processes that already are in practice and do not constitute new processes.

PUBLIC COMMENT: A public hearing was held on this rule on June 24, 2026. The public comment period expired on July 12, 2026. The agency provided a public comment summary which, due to its length, can be accessed electronically on the General Assembly website.

The proposed effective date is January 1, 2027.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, this rule will result in a cost reduction. The total estimated cost reduction as a result of implementing this rule is $2,213,688 (655,473 in general revenue and $1,558,215 in federal funds) for 2027 and $2,656,426 (783,114 in general revenue and $1,873,312 in federal funds) for 2028. The total estimated cost reduction to a state, county, or municipal government as a result of this rule is $655,473 for the current fiscal year and $783,114 for the next fiscal year.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program

(Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

This rule implements Acts 625 and 853 of 2025.

Act 625, sponsored by Representative Kendra Moore, modified the Medicaid Provider-led Organized Care Act and authorized an abbreviated independent assessment for certain beneficiaries enrolled in a risk-based provider organization.

Act 853, sponsored by Representative Jack Ladyman, removed the certification process of the Department of Human Services from licensure as a private care agency.

10. Department of Human Services, Division of County Operations and Division of Medical Services (Mary Franklin)

a. Medical Services Policy Updates Related to Resource Determinations (Concerning 20 CAR pts. 500, 570)

DESCRIPTION:

Statement of Necessity

The Division of County Operations updates the Medical Services Policy Manual related to three areas of resource determinations. First, the manual is updated to clarify the treatment of Independence Accounts and moves those details to the manual section covering all personal property exclusions. Second, an update is needed to detail treatment of 529 Educational Accounts as resources. Third, a clarification is made regarding the treatment of Title IV-E Adoption Subsidies. The update regarding Independence Accounts necessitates an amendment to the Arkansas Medicaid State Plan Eligibility Group summary details.

Summary

Medical Services Policy:

• Medical Services Policy E-430 is updated to clarify that official Foster Care and Adoption Subsidy Income will be excluded for all Aid to the Aged, Blind, and Disabled (AABD) Eligibility Groups;

• Medical Service Policy E-500 is updated to remove information regarding Independence Accounts and move it to E-523 to be listed with other personal property exclusions;

• Medical Services Policy E-522 is updated to remove internal business processes related to trusts and annuities, and add information regarding 529 Education Accounts in determinations regarding value of personal property;

• Medical Services Policy E-523 is updated to clarify how to handle interest accrued from federal tax refunds and advance payments, and adds information regarding Independence Accounts as noted above; and

• The Medical Services Policy Glossary has been updated to add a definition for Independence Accounts.

Arkansas Medicaid State Plan:

• An amendment to the state plan is being submitted to update the procedures regarding Independence Accounts.

<u>Changes Made After the Public Comment Period</u>

The agency indicated the rule was revised at the request of CMS. Per the agency, all changes were made to the CMS SPA template and no changes were made to the MSP manual. The agency indicated that the changes pertained to eligibility groups, income disregards, and income levels, along with technical and historical changes. The agency provided some substantive comments from CMS along with the agency's responses, which are included below.

<u>PUBLIC COMMENT</u>: No public hearing was held on this rule. The public comment period expired on May 18, 2026. The agency indicated that it received no comments.

The agency provided the following substantive comments received from CMS, along with the agency's responses:

1. <u>Medically Needy Income Level RU</u>: The state has included income standards for household sizes of 1 and 2, with an incremental increase of \$58.33 per additional household member. The MNIL currently reflected in the state plan at Supplement 1 to Attachment 2.6-A pages 8 and 9 matches this information for HH sizes of 1 and 2, however applying the incremental increase, starting at household sizes 5 and up, there are significant discrepancies between the current MNIL and what is proposed in this SPA. Please confirm the levels to be used, and either include larger household sizes with corresponding dollar amounts in the RU, or clarify that the increased levels included in the current submission are correct. **RESPONSE:** Incorrectly included the non-ABD levels, corrected to just HH sizes of 1 and 2.

2. <u>Age and Disability-Related Poverty Level</u>: Attachment 2.6A, Supplement 8b, page 3 contains an additional disregard that applies to "ARSeniors" (Section 1902(m)) and it was not added to this RU. This disregard works to match the resource standard for this group with the Qualified Medicare Beneficiaries group. Does Arkansas still apply this disregard? If so, please add the following language: Disregard the difference between \$2,000.00 for individuals and \$3,000.00 for couples, and the QMB resource limit for individuals and couples; thereby effectively setting the resource limit at the QMB resource level. **RESPONSE:** Yes, this disregard is still applied – updated to also show the [provided] language.

3. The state has appropriately included the Census Bureau wage income disregard that is currently reflected in the state plan at Supplement 8a to Attachment 2.6-A, addendum. The state has also appropriately included the new "Independence account established during Ticket to Work basic eligibility" resource disregard which is the subject of this SPA.

However, the state has also included the "Non-Home Income Producing Property" resource disregard which is currently included in the state plan at Supplement 8b to Attachment 2.6-A page 1, which appears to be limited to aged, blind, and disabled individuals. The language currently in the state plan reads:

> "For aged, blind and disabled individuals, including Qualified Medicare Beneficiaries, Non-Home Income Producing Property, such as mineral and timer rights, rented farm land, and rented dwellings, will continue to be excluded from resources if it meets the pre-5/1/90 SSI 6000/6% rule, which was terminated by Section 8014 of OBRA, 1989. This rule will not apply to cash assistance recipients; to those individuals deemed to be cash assistance recpients [sic]; to qualified disabled working individuals (QDWis) or to COBRA continuation recipients. (Arkansas has not elected to provide coverage to the COBRA continuation recipients.)"

We need clarification on whether this disregard applies only to ABD individuals or whether it applies to other individuals (i.e. the medically needy groups listed above). If it only applies to ABD individuals, please remove the disregard from these RUs. If it applies to non-ABD medically needy groups, no substantive revision is needed to these RUs.
RESPONSE: This disregard was added to all Medically Needy groups in error – corrected to not include the disregard to the non-ABD Medically Needy Groups.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost to implement this rule is $485,086 for the current fiscal year ($149,261 in general revenue and $335,825 in federal funds) and $586,577 for the next fiscal year ($180,490 in general revenue and $406,087 in federal funds). The total estimated cost by fiscal year to a state, county, or municipal government to implement this rule is $149,261 for the current fiscal year and $180,490 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least $100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

(1) a statement of the rule's basis and purpose;

The Division of County Operations is updating the Medical Services Manual to clarify the treatment of Independence and 529 Educational Accounts as resources. In addition, a clarification is being made in the treatment of Title IV-E Adoption Subsidies. The necessary revisions will also be made to the Arkansas Medicaid State Plan.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

To clarify how certain unearned income is used for Medicaid eligibility determinations.

(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;

N/A

(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;

N/A

(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;

N/A

(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

N/A

(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.

The agency monitors state and federal rules and policies for opportunities to reduce and control cost.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

11. Department of Human Services, Division of Medical Services (Elizabeth Pitman, items a-b, e, g; Jay Hill, Debora Inman, items c-d; Paula Stone, item f)

a. Continuous Glucose Monitors Billing Amendment (Concerning 20 CAR pts. 570, 641)

DESCRIPTION:

Statement of Necessity

The Division of Medical Services (DMS) implements Acts 623 and 857 of 2025. Act 623 amended the coverage criteria of Continuous Glucose Monitors (CGM) by Arkansas Medicaid to now be in accordance with Medicare policy. Act 857 provides that the Arkansas Medicaid Program will amend the coverage of CGM to allow a beneficiary to obtain them through a pharmacy or a Durable Medical Equipment (DME) provider.

DME providers now will be able to use Healthcare Common Procedure Coding System (HCPCS) billing codes when billing DME type medical claims for beneficiaries. The pharmacy billing options, including the web portal, remain available. The DME provider billing with CGM HCPCS codes will not be required to provide a National Drug Code.

All processes for billing CGM will have consistent approval requirements with prior authorization criteria that are no more restrictive than Medicare Local Coverage Determinations (LCD) in compliance with Act 623. Thus, DME criteria now matches pharmacy program coverage criteria, which previously was updated to reflect Medicare LCD.

While the pharmacy claims process (with reimbursement at Wholesale Acquisition Cost (WAC) plus a professional dispensing fee) remains, the Act states that the DME provider reimbursement with HCPCS for medical claims for CGMs must be the Medicare reimbursement. This change requires an amendment to the Arkansas Medicaid State Plan, and thus, approval by the Centers for Medicare & Medicaid.

Summary

- Arkansas Medicaid State Plan Attachment 4.19-B, page 2g: moved information regarding Durable Medical Equipment to new state plan page 4.19-B2g1;
- Arkansas Medicaid State Plan Attachment 4.19-B, page 2g1 (new

page): added, “C. Effective for dates of service on or after 05-01-26, Wholesale Acquisition Cost (WAC) plus applicable professional dispensing fee is no longer applicable to DME medical claim types but remains in effect for pharmacy claim types. Durable Medical Equipment (DME) medical claims reimbursement reverts to Medicare non-rural rates as described in (A)”; and

- Prosthetics Provider Manual Section 212.208 (Continuous Glucose Monitors) – updated section to clarify criteria for CGM.

PUBLIC COMMENT: A public hearing was held on this rule on February 25, 2026. The public comment period expired on March 9, 2026. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost to implement this rule is $1,116,666 for the current fiscal year ($343,598 in general revenue and $773,068 in federal funds) and $6,700,000 for the next fiscal year ($1,996,600 in general revenue and $4,703,400 in federal funds). The total estimated cost by fiscal year to a state, county, or municipal government to implement this rule is $343,598 for the current fiscal year and $1,996,600 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least $100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

(1) a statement of the rule’s basis and purpose;

This Rule will allow Durable Medical Equipment (DME) providers to bill with Healthcare Common Procedure Coding System (HCPCS) codes for Continuous Glucose Monitors (CGM) and supplies via a medical billing claim type and receive Medicare reimbursement. It also clarifies that the coverage criteria used by Medicaid for CGMs mirrors the Medicare local coverage criteria.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

Implementation of Acts 623 and 857 of 2025

(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;

N/A

(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;

N/A

(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;

N/A

(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

N/A

(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.

The agency monitors state and federal rules and policies for opportunities to reduce and control costs.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

This rule implements Acts 623 and 857 of 2025. Both Act 623, sponsored by Senator Breanne Davis, and Act 857, sponsored by Representative Jeremy Wooldridge, amended the coverage of a continuous glucose monitor in the Arkansas Medicaid Program.

b. Maternal Health Providers and Remote Monitoring (Concerning 20 CAR pts. 570, 641, 652)

DESCRIPTION:

Statement of Necessity

The Division of Medical Services (DMS) implements Acts 124, 140, 627, and 965 of 2025. These Acts mandate the Arkansas Medicaid Program to provide coverage and reimbursement for purchase of self-measurement blood pressure monitoring services for pregnant women and postpartum women, and establish coverage for two new provider types, doulas and lactation consultants. Acts 124 and 140 also require Medicaid coverage of continuous glucose monitoring (CGM). This requirement does not require a change to the Medicaid provider manuals or a State Plan Amendment as CGMs are already covered by Medicaid.

<u>Summary</u>

To comply with the Acts, DMS creates a new Nonclinical Maternal Care Medicaid Provider manual providing rules for doulas and lactation consultants and updates the Prosthetics Provider Manual to cover the purchase of blood pressure monitors. DMS will submit to the Centers for Medicare & Medicaid an amendment to the Arkansas Medicaid State Plan for the new provider types.

<u>Changes Made after Public Comments and Based on CMS Requests</u>

1. In response to comments, the title of the new manual changed to Supportive Maternal Care (SMC) Provider Manual.

2. Updated SMC throughout to address the concern that lactation counselors should not be required to perform clinical services; changed language around the documentation of treatment plans to clarify that these are service delivery plans and are non-clinical in nature.

3. Updated manuals to increase the length of time for which beneficiaries may receive lactation services to twelve (12) months postpartum.

4. Revised doula services to allow the PASSEs the option of covering doula services for their members.

5. Based on feedback, revised provisions to allow doulas who are also lactation consultants or counselors to bill for both service types; but providers may not double bill (or bill for providing both services at the same time) and records must reflect the times that each service was provided.

6. Removed referral provision for doula services and instead will issue a standing recommendation from our medical director to allow all pregnant women to access doula services.

7. Updated doula to a total of six visits without additional restrictions on when the visits can be used, plus attendance at delivery, but note that beneficiaries who need additional services may request an extension of benefits.

8. Clarified that remote monitoring applies to all pregnant women (updated billing for providers in the Certified Nurse Midwife, Nurse Practitioner, and Physician manuals).

9. Eliminated limits on ultrasounds and fetal non-stress tests to expand access to fetal monitoring, particularly for women in rural areas. This required adding the following manual revisions to the rule to implement and allow the testing – Ambulatory Surgical Center, Chiropractic, Certified Nurse Midwife, Hospital, Nurse Practitioner, Physician, and Podiatrist.

10. Added coverage of replacement cuffs with A4663 as a covered code with a reimbursement rate of $25.93.

11. Prosthetics Manual section 212.204 updated to include replacement cuffs.

12. Added clarifying language to State Plan Amendment to address and conform to all of the above and based upon CMS guidance.

13. SPA pages 4.19-B page 5: CMS requested updates to this page unrelated to the proposed rule. CMS required technical, grammatical, and stylistic updates to match their current standard language, terminology, and website citation style. See 12(d) Eyeglasses and 13(d)(1) Rehabilitative Services. These are not part of the maternal health rule, but CMS requested these updates as they review the entire SPA page upon submission and wanted DHS to update and correct. The only changes related to the rule proposal on the page involve a typographic correction in 13(c).

14. The updates clarifying billing and situations involving services across doulas, Community Health Workers, Certified Nurse Midwives, and lactation consultants resulted in changes to the Certified Nurse Midwife Manual by adding section 272.496, and revising the Supportive Care Manual sections 210.600, 220.200, and 220.600. The updates are necessary to provide the various provider groups explicit instruction on billing and to prevent double billing when not allowed.

15. Additional updates to the Supportive Maternal Care Manual sections 200.200 (terminology correction in the header), 200.300 (explains how group billing works), 200.400 (administrative reconsideration and appeals), and 210.100 (clarification of eligible services by certified community-based doulas).

PUBLIC COMMENT: A public hearing was held on this rule on February 25, 2026. The public comment period expired on March 9, 2026. The agency provided a public comment summary which, due to its length, can be accessed electronically on the General Assembly website.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

1. Ark. Code Ann. § 17-108-301 states that a certified community-based doula shall perform only certain listed services. Section 210.000 of the Nonclinical Maternal Care manual also lists services a doula may provide, but it includes additional items. Specifically, the manual lists "pregnancy, childbirth, and parenting education” rather than “childbirth education” and includes “assessment for health-related social needs” and “development of a birth plan”, which are not listed in the statute. Where do these additional items come from? (I see that these items are also included in the lists in the SPA.) **RESPONSE:** We have reviewed the language and have adjusted to ensure the provider manual mirrors the language in the Act.

2. Section 220.000 of the manual limits breastfeeding and lactation consultant coverage to beneficiaries who are pregnant or within 6 months postpartum, or infants up to six months of age. Is there a specific source for the six-month timeframe? **RESPONSE:** Other states that offer Medicaid coverage for lactation support extend coverage to 90 days (Kansas) and six months (Colorado). We originally selected the six-month timeframe and planned to allow additional services when medically necessary through an extension of benefit. Based on concerns expressed during public comment, we reconsidered this limit and opted to extend the limit to 12 months to provide the requested accommodation.

3. The SPA refers to a “Certified Lactation Counselor” while the definitions section of the manual refers to a “Certified Breastfeeding Counselor”. Are these two terms referring to the same thing? **RESPONSE:** Yes. The Act specifies a “certified lactation counselor” but doesn’t specify the certifying body. We selected the International Breastfeeding Institute, which certifies “breastfeeding counselors”. One commenter said the most used certifying body is the Academy of Lactation Policy and Practice (ALPP), which certifies “lactation counselors.” We have added this certifying body as acceptable certification to enroll as a Medicaid provider. We will include both breastfeeding counselors, as certified by the International Breastfeeding Institute, and lactation counselors, as certified by ALPP.

The proposed effective date is pending legislative review and approval.

<u>**FINANCIAL IMPACT**</u>**:** The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost to implement this rule is $8,793,641 for the current fiscal year ($2,705,803 in general revenue and $6,087,838 in federal funds) and $26,380,923 for the next fiscal year ($7,961,515 in general revenue and $18,519,408 in federal funds). The total estimated cost by fiscal year to a state, county, or municipal government to implement this rule is $2,705,803 for the current fiscal year and $7,861,515 for the next fiscal year.

The agency indicated that there is a new or increased cost or obligation of at least $100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

(1) a statement of the rule's basis and purpose;

Establish Medicaid coverage for two new provider types, doulas and lactation consultants, to improve maternal and infant health in Arkansas.

Provide new coverage for the purchase of blood pressure monitors for women with high-risk pregnancies, along with continuous glucose monitoring.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

Arkansas has a high rate of maternal mortality and poor infant health outcomes, including low birthweight, preterm birth, and infant mortality.

(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;

The Arkansas General Assembly passed Acts 140, 627, 965, requiring Medicaid coverage for doulas and lactation consultants. Acts 124 and 140 also require Medicaid coverage of remote monitoring and continuous glucose monitoring. The coverage is part of a multi-pronged strategy to improve maternal and infant health in Arkansas. Doulas and lactation consultants will provide critical support to pregnant and postpartum women and their babies through pregnancy, delivery and infancy.

(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;

N/A

(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;

TBD

(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

While existing rules did not create the problem, they did not adequately address it.

(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.

The Department of Human Services will monitor results of the Medicaid Core Set and other health outcome measures to identify the impact the new provider types and remote monitoring of pregnancy has on health outcomes. DHS will also monitor spending to ensure funding is properly spent and warrants continuation. This monitoring work will be done in coordination with federal funding DHS is receiving through the 10-year, $17 million Transforming Maternal Health grant.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

This rule implements Acts 124, 140, 627, and 965 of 2025.

Identical Acts 124 and 140 were sponsored by Representative Aaron Pilkington and Senator Missy Irvin, respectively. The Acts created the Healthy Moms, Healthy Babies Act and amended Arkansas law to improve maternal health outcomes in this state. The Acts required the Department of Human Services to adopt rules implementing Title 20, Chapter 77, Subchapter 29 of the Arkansas Code, regarding maternal health. *See* Act 124, § 3; Act 140, § 3.

Act 627, sponsored by Representative Ashley Hudson, mandated coverage for breastfeeding and lactation consultant services. The Act permitted the Department of Human Services to develop and promulgate rules implementing the Act that may apply to the Arkansas Medicaid Program.

Act 965, sponsored by Representative Lee Johnson, established the Certified Community-Based Doula Certification Act and certified birth and postpartum doulas in this state to improve maternal and infant outcomes. Act 965 required the Department of Human Services to promulgate rules relating to the reimbursement of doulas under the Arkansas Medicaid Program.

c. Program for All-Inclusive Care for the Elderly (PACE) Provider Manual, 20 CAR pt. 640

DESCRIPTION:

Statement of Necessity

The Division of Aging and Adult Behavioral Services (DAABHS) issues a new, streamlined Program of All-Inclusive Care for the Elderly (PACE)

Medicaid Provider Manual. The primary need for revision is recent changes in the federal PACE regulations found at 42 CFR Part 460 and to comply with Act 144 of the 2025 Regular Session of the State of Arkansas 95th General Assembly. The reorganized and revised manual is more conducive for provider reference and use.

Summary of Changes

This new PACE Manual makes responsive changes to federal regulations regarding nomenclature for plans of care, medical personnel requirements, care coordination requirements and timelines, plan of care requirements, recipient rights, grievances and appeals, and licensure exemptions for PACE programs. The updates pursuant to Act 144 exempt PACE providers from the licensing requirements for home healthcare services. The current manual is being repealed in this rule.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on May 18, 2026. The agency indicated that it received no comments.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

1. The list of participant rights in 202.200 mirrors the list in 42 CFR § 460.112, with one exception. Is there a reason "right to treatment" is included in the CFR (§ 460.112(b)) but not in the provider manual? **RESPONSE:** [The agency changed the proposed rule to conform to the federal language.]

2. The list of medical specialty services in 220.200(L) mirrors the list in 42 CFR § 460.70, with one exception. Is there a reason "palliative medicine" is included in the CFR (§ 460.70(a)(1)(xvi)) but not in the provider manual? **RESPONSE:** [The agency changed the proposed rule to conform to the federal language.]

The proposed effective date is September 1, 2026.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

This rule implements Act 144 of 2025. The Act, sponsored by Senator Dan Sullivan, exempted providers in the Program of All-Inclusive Care for the Elderly from the licensing requirements for home healthcare services.

d. PACE Rate Setting Methodology SPA (Concerning 20 CAR pt. 570)

DESCRIPTION:

Statement of Necessity

Recent guidance issued to all states by the Centers for Medicare & Medicaid Services (CMS) requires a change in rate methodology for reimbursement rates for the Program of All-Inclusive Care for the Elderly (PACE). Implementation of the new methodology requires a State Plan Amendment to the Arkansas Medicaid State Plan. And the changes will now follow a calendar year schedule (Jan.-Dec.) going forward to align the PACE rating period with Arkansas's other Medicaid managed care programs (such as PASSE, NET, etc.).

Summary

The SPA submission is based on the provided CMS guidance and recommendations of the actuaries. The updates to the state plan include the following:

1. All references to the Upper Payment Limit (UPL) are replaced with "Amount that Would Otherwise be Paid (AWOP)";

2. Discussion of Base Data has been aligned with the methodology used in the draft SFY 26-27 rates study;

3. Removal of references to future trends;

4. Removal of Qualified Medicare Beneficiary only rate category group based on feedback from CMS and evaluation of actual PACE membership;

5. Removal of the discussion of claims completion factors coming from fourteen primary subgroupings; and

6. Removal of the section on adjustments as those items are outdated, no longer considered in the rate setting process, not concurrent with the draft SFY 26-27 rates (based on CMS-64 reporting), or too specific so as not to allow for flexibility between rate submissions.

PUBLIC COMMENT: A public hearing was held on this rule on April 29, 2026. The public comment period expired on May 18, 2026. The agency indicated that it received no comments.

The proposed effective date is September 1, 2026.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program

(Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

e. **Electronic Visit Verification (EVV) for In-Home Personal Care, Attendant Care, Respite Care, and Home Health (Concerning 20 CAR pt. 600)**

DESCRIPTION:

Statement of Necessity

The Division of Medical Services (DMS) updates Electronic Visit Verification (EVV) rules to align with requirements in the 21st Century Cures Act. EVV is provided for in-home personal care, attendant care, respite care, and home health services. The updates clarify expectations for the use of EVV, remove ambiguous language, and provide specific EVV provider requirements.

As part of the updates, DMS removes the provider application requirement to submit a copy of a W-9 tax form. Instead, DMS adds the requirement to submit a National Provider Identifier (if applicable) for health care providers as defined in 45 CFR § 160.103. New forms will capture information necessary to attest to EVV requirements.

Summary

DMS updates Section I of the Arkansas Medicaid Provider Manual. Sections 140.00 through 145.400 are revised to state the new EVV rules in compliance with the federal act and the new provider enrollment application process.

PUBLIC COMMENT: A public hearing was held on this rule on April 29, 2026. The public comment period expired on May 18, 2026. The agency indicated that it received no public comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

f. **Hospital Based Residential Treatment for Substance Use Disorder (Concerning 20 CAR pts. 570, 624)**

DESCRIPTION:

Statement of Necessity

A Substance Abuse Residential Treatment Unit is a specialized unit designed to help individuals with substance use disorders overcome their addiction and achieve long-term recovery. The Office of Substance Abuse and Mental Health within the Arkansas Department of Human Services proposes a rule establishing hospital based residential rehabilitation services to treat Substance Use Disorders (SUD) for those under age twenty-one (21). Inpatient SUD residential treatment unit admissions will follow a 100% prior authorization process to determine medical necessity for inpatient admission utilizing the American Society of Addition Medicine (ASAM) criteria. For an inpatient SUD residential treatment unit that is in a separate licensed unit, the hospital will be reimbursed at the same hospital-specific per diem rate with no cost settlement.

Summary

To establish hospital based residential rehabilitation services to treat substance use disorders requires an amendment to the Arkansas Medicaid State Plan and adding two new sections to the Hospital/Critical Access Hospital/End Stage Renal Disease Medicaid Provider Manual. The State Plan amendment establishes the services as stated above regarding prior authorization and reimbursement for those under age twenty-one (21).

The new sections in the provider manual detail the residential rehabilitation services to treat SUD and the prior authorization process. Section 211.130 details services rendered by a Substance Abuse Residential Treatment Unit based on criteria set forth by ASAM. Section 240.100 details the prior authorization process for the services to be rendered. That process includes transmittal of the beneficiary's records, and what records are needed to be reviewed by the Arkansas Medicaid Utilization and Clinical Services vendor or, for members of a PASSE, the PASSE utilization management entity. The vendor or the PASSE will determine whether inpatient substance use disorder services are medically necessary and approve or disapprove the inpatient stay. Both the beneficiary and the provider must be enrolled in Arkansas Medicaid at the time a service is provided, and the provider must comply with the regulations set forth in this manual and in official program correspondence. Approval or denial of services must be rendered within two (2) business days of receipt of all information by the vendor or PASSE. Prior authorizations cover a minimum of one (1) day up to a maximum of thirty (30) days. Additional days can be authorized through request for extended stay and based upon medical necessity.

PUBLIC COMMENT: A public hearing was held on this rule on June

17, 2026. The public comment period expired on July 6, 2026. The agency indicated that it received no comments.

This rule was previously filed as an emergency rule with an effective date of June 19, 2026. The proposed effective date for permanent promulgation is September 1, 2026.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). See Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

g. Clarification of Requirements for an Acute Rehabilitation Unit within a Hospital and Update to the Medicaid Utilization Management Program (MUMP) (Concerning 20 CAR pts. 570, 610, 624, 631, 636, 643, and 644)

DESCRIPTION: This rule will clarify the criteria for acute inpatient rehabilitation and regulation of care for rehabilitation services provided in an acute care hospital. In addition, it defines the medical conditions that require intensive rehabilitation services. It will also provide clarification of the Medical Utilization Management Program (MUMP) and its applicability to acute rehabilitation services. This also changes the threshold for MUMP reviews for inpatient admissions from four (4) days to seven (7) days, except in Freestanding Rehabilitative Hospitals the review time will be ten (10) days. This will decrease administrative burdens on providers, while not significantly increasing cost to the State.

PUBLIC COMMENT: A public hearing was held on this rule on April 29, 2026. The public comment period expired on May 18, 2026. Based on public comments received, the agency opened a second public comment period. A second public hearing was held on June 17, 2026, and the second public comment period expired on July 6, 2026. The agency provided a public comment summary which, due to its length, can be accessed electronically on the General Assembly website.

The proposed effective date is September 1, 2026.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost to implement this rule is $239,144 for the current fiscal year ($73,585 in general revenue and $165,559 in federal funds) and $478,288 for the next fiscal year ($147,934 in general revenue and $330,354 in federal funds). The total estimated cost by fiscal year to a state, county, or municipal government to implement this rule is $73,585 for the current fiscal year and $147,934 for the next fiscal year. The agency indicated that this is a potential general revenue increase.

The agency indicated that there is a new or increased cost or obligation of at least $100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

(1) a statement of the rule's basis and purpose;

This rule is necessary to clarify acute inpatient rehabilitation criteria, regulate care for rehabilitation services within an acute care hospital, and define medical conditions requiring intensive rehabilitation services to more effectively coordinate acute rehabilitation services provided to Medicaid beneficiaries within an inpatient acute care hospital. It is also necessary to revise the length of time a beneficiary can remain admitted for an inpatient stay before the hospital must obtain medical necessity authorization through the Medical Utilization Management Program (MUMP) process. This also changes the threshold for MUMP reviews for inpatient admissions from four (4) days to seven (7) days, except in Freestanding Rehabilitative Hospitals the review time will be ten (10) days.

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

The rule will provide clear guidance and regulations to providers regarding proper utilization of acute inpatient rehabilitation and sets forth the regulation of care for rehabilitation services in an inpatient acute care hospital. In addition, the rule changes the length of time a beneficiary can be admitted to an acute hospital before a MUMP review for medical necessity is required. This also changes the threshold for MUMP reviews for inpatient admissions from four (4) days to seven (7) days, except in Freestanding Rehabilitative Hospitals the review time will be ten (10) days. Additional time will allow hospitals and medical personnel time to more specifically pinpoint and treat conditions requiring an acute level healthcare. In addition, this change will decrease the administrative burden associated with provision of acute inpatient hospital services. The rule is not 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;

N/A

(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;

N/A

(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;

N/A

(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

N/A

(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.

The agency monitors state and federal rules and policies for opportunities to reduce and control cost.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

12. Department of Labor and Licensing (Lacie Kirchner, Lindsay Moore)

a. Elevator Safety Board Rules, 20 CAR pt. 881

DESCRIPTION: The Elevator Safety Board's proposed rule changes for 20 CAR pt. 881 are in accordance with Acts 737 & 746 of 2025. Act 737 repealed the Director of the Division of Labor from all statutes. The proposal removes reference throughout the rules. Act 746 added elevator testing contractors to the regulatory authority of the Board and clarified all licenses issued by the Board expire annually, originally the licenses issued by the Board were on a one- or two-year renewal cycle. The proposal incorporates these changes. The proposal also cleans up outdated or repetitive information already contained in statutes to simplify the rules.

The proposed rules also seek to update the code references for the American Society of Mechanical Engineers (ASME). The Board has adopted the ASME as the standard for elevator licenses and the proposed rules updates out of date references.

PUBLIC COMMENT: The public comment period expired on April 23, 2026, and a public hearing was held on the same day. The agency indicated that it received no public comments.

Camille Fleming, an attorney with the Bureau of Legislative Research, asked the following question:

1. **QUESTION**. 20 CAR § 881-110(m). This subdivision states that an applicant for an elevator testing contractor's license shall complete an application approved by the board and shall have the qualifications under subdivisions (l)(1)(A)-(C) of this section. Subsection (1) also includes a subdivision (l)(1)(D), which sets for a license fee, and was not mentioned in reference to the elevator testing contractor's license. Do applicants for an elevator testing contractor's license also need to pay some sort of license fee? **RESPONSE**: Yes the elevator testing contractors will pay the same fee as the elevator contactors as this is simply a branch of that same license. Not including the (D) in the reference to the subdivision was an oversight on our end. Thank you for catching this.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that there was no financial impact.

LEGAL AUTHORIZATION: Upon the determination, the Elevator Safety Board shall make, amend, or repeal from time to time rules regarding the maintenance, inspection, tests, and operation of all elevators and escalators, the construction of new elevators, dumbwaiters, and escalators, the alteration of existing elevators, dumbwaiters, and escalators, prescribing minimum safety requirements for all existing elevators, dumbwaiters, and escalators, prescribing the fees for construction permits, operating permits, acceptance inspections, initial inspections, and periodic inspections for new and existing elevators, escalators, and dumbwaiters, and the revocation, suspension, nonrenewal, and reinstatement of licenses and for the imposition of lesser disciplinary measures. *See* Arkansas Code § 20-24-106(c). Fees shall be paid to the Department of Labor and Licensing for the installation permits for each passenger, freight, or one-man elevator or dumbwaiter. *See* Arkansas Code § 20-24-117(a).

This rule implements Acts 2025, No. 746, sponsored by Senator Missy Irvin, which assisted the administration of the Code Enforcement Section of the Department of Labor and Licensing, repealed the electrical contractor and air conditioning electrician licenses, transferred and upgraded the Class C HVACR license, improved the licensing of apprentice electricians, helped the elevator owners satisfy testing requirements, clarified annual licensing renewal periods, and aided in the administration of the state's electrician, HVACR, elevator, and boiler safety laws.

This rule implements Acts 2025, No. 737, sponsored by Senator Missy Irvin, which amended the duties of the Secretary of the Department of Labor and Licensing and amended portions of the Arkansas Code which resulted from Initiated Act 1 of 1914.

13. Department of Labor and Licensing, Arkansas Motor Vehicle Commission (Lacie Kirchner, Daniel Pace)

a. Arkansas Motor Vehicle Commission Rules, Limitations, 23 CAR § 410-501

DESCRIPTION: The proposed rule amendment adds e-bikes with a maximum speed of 20 mph to the list of specialty vehicles which are exempt from the rules of the commission. This allows stores such as Academy Sports, Dick's Sporting Goods, Walmart and other such retailers to sell theses e-bikes without needing a dealer's license from the Commission.

PUBLIC COMMENT: The public comment period expired on May 19, 2026. No public hearing was held. No public comment was received.

FINANCIAL IMPACT: The agency indicated that there is no financial impact.

The proposed effective date is pending legislative review and approval.

LEGAL AUTHORIZATION: The Arkansas Motor Vehicle Commission shall have power to prescribe, issue, amend, and rescind, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., such reasonable rules as may be reasonably necessary or appropriate to carry out the provisions of the Arkansas Motor Vehicle Commission Act, Arkansas Code § 23-112-101 et seq. *See* Arkansas Code § 23-112-204.

14. Department of Labor and Licensing, Arkansas Real Estate Commission (Lacie Kirchner, Heather Henries)

a. Arkansas Real Estate Commission Rules, 17 CAR pt. 220

DESCRIPTION: The Arkansas Real Estate Commission seeks to revise their rules to comply with Acts 392, 559, and 835 of 2025.

Act 392 creates two new licenses for Property Managers. Under this act, revised rules are essential to carry out the creation of the Property Management Associate and Property Management Broker licenses. The proposed rules create provisions for fee payment, licensing requirements, education requirements, exam requirements, and disciplinary penalties that are necessary to protect the public.

Act 559 amends continuing education requirements for licensees who are seventy-two years of age or older. To comply with this act, revised rules are necessary to revise continuing education requirements for licensees who are seventy-two years of age or older, have held an active real estate license for twenty-five consecutive years or more, and have had no disciplinary penalties in the previous five years. This revision will exempt real estate licensees who meet these criteria from continuing education that is required of all other real estate licensees.

Act 835 clarifies existing rules regarding dual agency, and the proposed rule revision is necessary to carry out this provision to protect the public. When a real estate licensee represents both the buyer and seller in a transaction, this amended rule allows for the waiver of the primary duty of absolute fidelity to the client when that disclosure may materially affect the compromising position of the client.

PUBLIC COMMENT: A public hearing was held on May 12, 2026. The public comment period expired on May 11, 2026. The agency provided the following public comment summary:

1. Commenter Name: Leigh Spann, Executive Broker, Trademark Real Estate Association

Comment Summary: During the 30-day comment period, Ms. Spann requested that the exam score for brokers be raised from 70 to 75.

AREC Response: Thanked her for input and explained that this request might be considered a barrier to licensure. Ms. Spann attended the public hearing but chose not to comment at the hearing.

2. Commenter Name: Barbara Roberts, Executive Broker, LPT Realty

Comment Summary: During the 30-day comment period, Ms. Roberts requested that the exam score for brokers be raised from 70 to 75.

AREC Response: Thanked her for input and explained that this request might be considered a barrier to licensure. Ms. Roberts did not attend the public hearing.

3. Commenter Name: Arkansas Realtors® Association, Little Rock, AR

Comment Summary: Sent a letter of support of the proposed regulations during the 30-day public comment period.

AREC Response: Thanked the organization for their support.

4. Commenter Name: Melissa Goff, Executive Director, AREC

Comment Summary: Ms. Goff presented a list of six items that were non-substantive changes to clarify and improve the proposed regulations. Those proposed revisions included:

• Clarifying that licenses would be issued according to the corresponding exam that is passed.

• Allowing for waivers of property management licensees to be the same as is allowed for real estate licensees.

• Clarifying that reporting violations includes any violation of the AREC regulations.

• Clarifying language that changes “broker specific” to “license specific.”

• Omitting language that mirrored statute language.

• Corrected a numbering error.

<u>AREC Response</u>: The commission adopted the proposed revisions proposed by Ms. Goff.

Camille Fleming, an attorney with the Bureau of Legislative Research, asked the following questions:

1. **QUESTION**. 17 CAR § 220-1106(b). This subsection states, “The executive director of the commission may waive all or part of the continuing education requirements on the basis of health-related concerns or restrictions of the licensee or in recognition of the licensee’s achievements related to the real estate or property management industry or legislative service.” This sentence is structured in a way where there could be more than one interpretation as to what exceptions are. For example, this could be read the director waiving the requirements “on the basis of…legislative service” or waiving the requirements “in recognition of the licensee’s achievements related to legislative service”. How does the agency intend this subsection to be interpreted? **RESPONSE**: The intent is to permit the executive director to consider waiving all or part of CE requirements when any of the following conditions are present:

Health-related concerns

Restrictions of the licensee to access CE

Achievements related to the RE or PM industry

Legislative Service

2. **QUESTION**: 17 CAR § 220-1106(c) and (d). These subsections discuss how licensees can submit an application for exemption from continuing education requirements if they meet certain qualifications. One of these requirements is having held “an active Arkansas license for a consecutive twenty-five (25) years or more”. Other requirements in these subsections mention licenses having a “renewal or reactivation period”. If a licensee ever reactivates their licenses, does that count against the twenty-five-year period of holding an active license? **RESPONSE**: The bill sponsor’s intent was to only allow the exemption if there were 25 consecutive years of active licensure. If someone with a license reactivates after having an expired or inactive license, that would be where the start of where the 25 years of active , consecutive licensure would begin.

3. **QUESTION**. 17 CAR § 220-1501(g)(1)(A). This subdivision states that

a person may not practice as a property management education provider unless the commission approves them as a subject matter expert in the property management field. How does a person go about getting approved by the commission as a subject matter expert? **RESPONSE**: AREC would look at their years of experience working in the PM industry and the depth of that experience. For depth, we would look at how many types of PM they have conducted, such as commercial, residential, multi-family, short term rentals, etc.

4. **QUESTION**. 17 CAR § 220-1106. This new section almost mirrors the language found in Act 559, codified at Arkansas Code § 17-42-307(c)(3)(B). However, it does not include the language in (c)(4),(5), and (6), which appears relevant to the education exemption. Is there any reason the agency chose not to include these subdivisions in the rule as well? **RESPONSE**: AREC will be omitting 17 CAR § 220-1106(c)(d) from the final rules and our staff will make that comment during the public hearing to disclose this omission to the public and the commission.

5. **QUESTION**. One of the questions in the fiscal impact statement that you filled out was:

"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."

To which you responded:

"AREC will be implementing a new Information System through ADLL. Costs for implementation have not been provided by the vendor.

Enhancements to Website to allow for education reporting and on-line payment of fees

New exams by PearsonVue, AREC exam provider have been provided at no cost to the state.

Bill sponsor of Act 392 has committed to seeking an additional AREC licensing position at an expected cost of $50K per year for salary and benefits."

Have AREC or DLL obtained the cost of implementation from the vendor at this time? If not, when does AREC or DLL expect to get that information? **RESPONSE:** AREC is currently implementing a new information system for the entire agency, that will include the costs of website development and software that will align with the licensing system used by other agencies in the ADLL. We are in the implementation stage now, but no costs of the program have been obtained yet by the vendor, Tyler Tech.

FOLLOW UP QUESTION: Was AREC able to obtain that additional licensing position of $50k during the fiscal year? If not, when does AREC expect that it will obtain that position? **RESPONSE:** At this time, an additional licensing position has not been obtained, and there is no expected timeline to obtain the position.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact. With respect to the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the amended rule, the agency estimated a cost of $1,000.00 for the next fiscal year, stating:

> Potential licensees will incur costs for application fee, background check fee, licensing fee, exam fee, and education fees.

With respect to the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule, the agency indicated:

> AREC will be implementing a new Information System through ADLL. Costs for implementation have not been provided by the vendor.
>
> Enhancements to Website to allow for education reporting and on-line payment of fees
>
> New exams by PearsonVue, AREC exam provider have been provided at no cost to the state.
>
> Bill sponsor of Act 392 has committed to seeking an additional AREC licensing position at an expected cost of $50K per year for salary and benefits.

LEGAL AUTHORIZATION: The Arkansas Real Estate Commission may do all things necessary and convenient for carrying into effect the provisions of the Real Estate License Law, Arkansas Code § 17-42-101 et seq., and may from time to time promulgate necessary or desirable rules. *See* Arkansas Code § 17-42-203(a). The commission shall promulgate rules to implement Acts 2025, No. 392. *See* Arkansas Code § 17-42-111. The commission further has the authority to establish, charge, and collect various fees set forth in Arkansas Code § 17-42-302.

This act implements Acts 2025, No. 392, sponsored by Representative Richard McGrew, which amended the law concerning the Arkansas Real Estate Commission, created a property management broker and property management associate license, and amended the real estate law.

This act implements Acts 2025, No. 559, sponsored by Representative Hope Duke, which amended the law concerning continuing education requirements for real estate licensees and created continuing education exemptions for certain real estate broker licensees.

This act implements Acts 2025, No. 835, sponsored by Representative Jeremiah Moore, which amended the law concerning agency relationship and duties related to real estate licenses and clarified the obligations of dual agency.

15. Department of Labor and Licensing, Arkansas Towing and Recovery Board (Lacie Kirchner, Paul Burnett)

a. Administrative Rules of the Arkansas Towing and Recovery Board, 27 CAR pt. 170

DESCRIPTION: The Arkansas Towing and Recovery Board's proposed rule changes for 27 CAR pt. 170 are in accordance with Act 932 of 2025. Act 932 updated definitions, amended the qualifications and membership of the board, and addressed the release of cargo and contents of personal vehicles. The proposal makes these changes to the rules as well.

The proposed rules also seek to make changes to ensure compliance with state law and better help protect consumers by updating existing rules.

Following the public comment period, the Board made a few changes in response to the comments. Some of the proposed changes were removed and reverted back to the original language prior to the rule promulgation process.

PUBLIC COMMENT: A public hearing was held on April 16, 2026. The public comment period expired on April 20, 2026. The agency provided the following public comment summary:

1. Commenter Name: Kitty Cone on behalf of the Foundation for Responsible Towing

Comment Summary: Ms. Cone submitted a 20-page document outlying the comments of the Foundation for Responsible Towing. Ms. Cone restated several of the points made in the document during the public comment meeting.

1 – Comment was made regarding the definition of "consumer complaint" and ATRB's authority.

2 – Stated language added to the definition of "labor" was duplicative and not needed.

3 – Commented that language contained in the definition of "nonconsent" was not needed.

4 – Disagreed with the added definition of "proof of ownership".

5 – Requested removal of "snatch block usage" under the definition of "standard tow".

6 – Disagreed with the modified definition of "storage" stating more clarification is needed and that such language potentially exceeds ATRB's authority.

7 – Disagreed with the ATRB Director having authority to call a special meeting of the board in consultation with the Chairman.

8 – Suggested language be added to section 27 CAR §170-103(i).

9 – Requested clarification to 27 CAR §170-104(i) regarding the issuing and serving of subpoenas.

10 – Suggested ATRB provided guidance regarding reasonable tow rates.

11 – Disagreed with proposed language concerning the placement of license numbers and other required information on tow vehicles. Made an argument that the proposal conflicts with 49 CFR 390.21(b)-(c).

12 – Requested further clarification regarding when storage fees may start to accumulate and how the time for clerical services should be documented.

13 – Requested clarification on what is "normal business hours" and suggested a fence height requirement of "a minimum of 6 feet" may conflict with city code.

14 – Suggested section 27 CAR §170-113(c)(1) be edited regarding the issuance and payment of citations.

15 – Stated new rules regarding the release of cargo and contents of personal vehicles directly contradicted the statutory language of Act 932 of 2025. Claims the rule "substantially increases the likelihood that towing companies will be unable to recover towing and storage charges." Disagreed with the proposed documents that could be provided as assurance of future financial responsibility. Stated the rule "creates a significant and unworkable risk of financial loss for tow companies while also introducing substantial enforcement challenges." Stated in part "the proposed rule, as currently drafted, creates procedural obstacles rather than providing a clear pathway for financial protection with enforcement guidance".

<u>ATRB Response</u>: ATRB received Ms. Cone's comments both in writing and orally. Ms. Cone's comments were taken under advisement and considered by ATRB following the public comment meeting.

1 – ATRB made no changes to the definition that was commented on with the proposed rule changes but will take the comment under advisement for consideration at a future revision. 2

2 – ATRB believes the added language is necessary based on phone calls and complaints received by the board office.

3 – Language commented on is statutory ACA §27-50-1202(4) and not changed by the proposed rules.

4 – Language concerning notarized bill of sale is derived from ACA §27-14-701(c).

5 – Based on public comments received and further discussion ATRB is adding additional clarification to this rule change.

6 – ACA §27-50-1203(e)(D) authorizes ATRB to determine what is excessive and unnecessary fees related to storage. Furthermore, ASP Rotation Policy Rule 2.8, 2.9, & 2.10 address this issue so ATRB is being consistent with other state entities.

7 – This is common practice. The Director contacts the Chairman to inform him/her of the need for a special meeting and together it is decided when the meeting will happen. Without this practice, meetings such as the one held for public comments would not occur.

8 – The section in which the suggestions are being made is not part of the proposed rule revisions.

9 – ATRB will ensure compliance with subpoenas to the best of its ability.

10 – ATRB will not be setting tow rates at this time.

11 – ATRB does not agree with the suggestion this rule conflicts with the federal rule.

12 – ATRB will consider further clarification at a later revision if necessary after the effective date of the current proposed rules.

13 – ATRB will take clarifying “normal business hours” under advisement for future revisions. ATRB has set the fence height in accordance with ASP Rotation Policy Rule 2.4.

14 – The section in which the suggestions are being made is not part of the proposed rule revisions.

15 – As written, the statute concerning the release of cargo does not give an enforcement mechanism for the assurances. Based on comments received, ATRB will be making a change to section (b)(3).

2. Commenter Name: Shannon Pittman, Mid South Claims Service, Inc.

Comment Summary: Ms. Pittman submitted a 7-page document of comments in regard to section 27 CAR §170-118, the rules written in response to Act 932 of 2025. Ms. Pittman expressed her concerns with the types of assurances that were listed in the rule for future financial responsibility. She echoed the comments regarding this rule that were submitted by Kitty Cone.

ATRB Response: Ms. Pittman’s comments were taken under advisement and considered by ATRB following the public comment meeting. As written, the statute concerning the release of cargo does not give an enforcement mechanism for the assurances. Based on comments received, ATRB will be making a change to section (b)(3).

3. Commenter Name: Greg Cochran, Tow Company Owner–Arkansas Truck Center

Comment Summary: Mr. Cochran presented his comments at the public comment meeting. He gave his opinion on the reason for the Board and how he feels ATRB and the towing industry are at odds. He discussed a 60 Minutes report that was done regarding predatory towing as well as a recent issue he experienced with a company whose trucks have been impounded on several occasions. Mr. Cochran commented several times regarding insurance and whether it is sufficient to cover towing charges.

ATRB Response: Mr. Cochran's comments were taken under advisement and considered by ATRB following the public comment meeting.

4. Commenter Name: Tim Moody, Tow Company Owner–J-Hook NLR

Comment Summary: Mr. Moody discussed his involvement in the 2025 legislative process. He shared concerns regarding out of state truckers and neighboring states' laws concerning cargo being left in ditches. He shared his opinion that the new law is working as written, why try changing anything and that the rule will never work.

ATRB Response: Mr. Moody's comments were taken under advisement and considered by ATRB following the public comment meeting.

5. Commenter Name: Wayne Edwards, Tow Company Owner–Edwards Towing

Comment Summary: Mr. Edwards stated that a snatch block doesn't need to be a standard tow.

ATRB Response: Mr. Edwards's comments were taken under advisement and considered by ATRB following the public comment meeting

6. Commenter Name: Josh Copeland – Greg's Too Auto Repair &Towing

Comment Summary: Mr. Copeland submitted 2 pages of written comments expressing his concerns over the release of personal items.

ATRB Response: Mr. Copeland's comments were received, however as the comments were focused on the Act not the proposed rules the Board could take no action.

Camille Fleming, an attorney with the Bureau of Legislative Research, asked the following questions:

1. **QUESTION**. 27 CAR § 170-102This rule amendment adds updates to the "towing services" definition to match what is found in Act 932, but this amendment does not add a definition of "cargo", which was also added in the Act as well. Is there a reason the agency chose not to add this definition as well? **RESPONSE**: Towing services was already a defined term within the existing rules; therefore we were simply trying to update the existing terminology. Cargo was not a term previously defined by the rules and so the decision was made not to add another definition that is already in statute.

2. **QUESTION**. 27 CAR § 170-102(33)(B). This amendment for the definition of "storage" clarifies that, "Storage does not mean a fee charged for weekend or holiday days in which the tow business does not offer an

after-hours release option." Under this new definition, is it permissible for a business to issue a fee for keeping a vehicle over weekend or holidays when it does not offer an after-hours release option, as long as the business does not call it a "storage" fee? **RESPONSE**: No, a business would not be allowed to charge a fee for weekends or holidays if an after-hours release option did not exist. All charges must be itemized on invoices to accurately describe the service provided.

3. **QUESTION**. 27 CAR § 170-102(40)(A). Act 932's definition of "towing services" ends with for "on or off of a road, street, or highway." This rule's updated definition ends with "on or off Arkansas's roadways". Is there a reason the agency chose not to mirror the Act's wording for this definition? **RESPONSE**: (40)(A) was the existing definition of "towing services" and in an attempt to update the definition with the new language from Act 932 the existing language of "on or off Arkansas's roadways" was overlooked as varying from the statutory definition.

4. **QUESTION**. 27 CAR § 170-111(8). This subdivision states that the board may consider comparing with reasonable prices in the region when determining excessive pricing. The amendment adds that the prices in the region are "determined by the annually submitted rate sheets to the Arkansas State Police troops or the board." What entity submits these rate sheets to the Arkansas State Police or the board? **RESPONSE**: Tow businesses provide the rate sheets as required by the board or Arkansas State Police.

5. **QUESTION**: 27 CAR § 170-111(10)(B). This subdivision is highlighted as if there was a change from the first version of the rule submitted, but I do not see a difference. Can you let me know what was changed? **RESPONSE**: There was originally an example included "(C) Example: A vehicle released within eight (8) hours would not compute to a full day of storage." The board was concerned that the example would cause more confusion than it would help.

6. **QUESTION**: 27 CAR § 170-118(b)(4). This subdivision, which concerned questions about assurance for future financial responsibility, was deleted in the revised rule. Can you explain why this subdivision was removed? **RESPONSE**: The original language that was proposed would have given the Director and Chairperson discretion as to whether a proposed assurance of future financial responsibility would be sufficient or not. After the public comments were received and further discussions by the Board, the Board determined they did not want to put that type of responsibility on the Director and Chairperson and would leave determination to the business owner and consumer.

7. **QUESTION**. Public comment summary, question 3. This summary states that Mr. Cochran presented his comment at the "public comment meeting". However, the public notice for this rule does not mention a public comment meeting. The Questionnaire submitted to BLR also states

that no public hearing would be held. Was a public hearing held or was Mr. Cochran perhaps allowed to give a public comment at a regular board meeting that was not intended to be a public hearing? **RESPONSE**: At the time of the public notice and submission of the questionnaire the Board was not going to hold a meeting for public comment. After the public comment period began the Board received a request from the Foundation for Responsible Towing, who had submitted written comment, to have an opportunity to verbally present their comments. The Board set a meeting in which they were allowed to do so, along with the Board reviewing some of the public comments that had already been received at that time. I have a video recording of the meeting and the written comments that were restated during the meeting if you need them.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that there is no financial impact.

LEGAL AUTHORIZATION: The Arkansas Towing and Recovery Board shall promulgate rules to carry out the intent of Arkansas Code § 27-50-1201 et seq., which concerns the removal or immobilization of unattended or abandoned vehicles. *See* Arkansas Code § 27-50-1203(e)(1). Included in the board's authority to promulgate rules is the authority to determine and sanction excessive or unnecessary fees charged to consumers related to nonconsent towing, recovery, storage, or vehicle immobilization services. *See* Arkansas Code § 27-50-1203(e)(1)(D). The board may also assess a fine of between fifty dollars ($50.00) and two hundred fifty dollars ($250) for failure to comply with Arkansas Code § 27-50-1203(e)(1)(I), which requires all entities permitted, licensed, or regulated under Arkansas Code § 27-50-1201 et seq., to post a sign notifying customers of the consumer complaint process under Arkansas Code § 27-50-1218 and provides that the sign shall be in a conspicuous and central location in the public area and be a minimum of sixteen inches by twenty inches (16″ x 20″) in size. *See* Arkansas Code § 27-50-1203(e)(1)(I)(iii).

Additionally, the board may charge towing business license, repossession towing license, and vehicle immobilization service license fees not to exceed two hundred dollars ($200) per license; a fee not to exceed one hundred dollars ($100) per tow vehicle safety permit; and a fee for a certificate of registration for consent towing not to exceed twenty-five dollars ($25.00). *See* Arkansas Code § 27-50-1203(f)(1). The board shall also have the authority to impose late filing fees in addition to the original filing fees in an amount not to exceed the original amount of the license fee or safety permit fee. *See* Arkansas Code § 27-50-1203(f)(2). Finally, the board shall promulgate rules necessary for the towing, recovery, and storage of electrical vehicles. *See* Arkansas Code § 27-50-1224.

This rule implements Acts 2025, No. 932, sponsored by Representative

Stetson Painter, which created the Arkansas Towing and Recovery Reform and Efficiency Act of 2025, amended the law concerning the Arkansas Towing and Recovery Board, amended the qualifications and membership of the Arkansas Towing and Recovery Board, and amended the law concerning a lien placed on cargo or the contents of a personal vehicle.

16. Department of Labor and Licensing, Board of Electrical Examiners of the State of Arkansas (Lacie Kirchner, Lindsay Moore)

a. Rules of the Board of Electrical Examiners of the State of Arkansas, 17 CAR pt. 210

DESCRIPTION: The Board of Electrical Examiners' proposed rule changes for 17 CAR pt. 210 are in accordance with Act 746 of 2025. The Act removed definitions, clarified exemptions for individuals holding HVACR licenses, repealed air conditioning electrician license, and clarified requirements for apprentices and apprentice schools. The proposal makes these changes to the rules as well. The proposal also cleans up outdated or repetitive information already contained in statutes to simplify the rules.

The proposed rules also seek to update to the current code cycle for the National Electrical Code. By statute the Board is to adopt the code, and the proposal adopts the 2026 code with some exemptions.

PUBLIC COMMENT: A public hearing was held on April 21, 2026, and the public comment period expired on April 20, 2026. The agency received the following public comments.

1. Commenter Name: Brenda Jones, Executive Officer, Arkansas Home Builders Association

Comment Summary: The Home Builders Association was expressing endorsement and support for the adoption of the National Electrical Code.

ABOEE Response: Thanked the Association for its support.

2. Commenter Name: David Gray, Secretary/Treasurer, Arkansas Chapter IAEI

Comment Summary: (a) Mr. Gray urged ABOEE to adopt the 2026 National Electrical Code in its entirety, specifically addressing his concerns regarding island and peninsula countertop receptacle requirements. (b) Mr. Gray opposed the proposed amendment regarding HVACR licensees' exemption to run 75 feet of line voltage power wiring under certain circumstances. He expressed competency concerns and potential liability.

ABOEE Response: ABOEE received Gray's comments both in writing and orally. Mr. Gray's comments regarding the adoption of the 2026 Code were taken under advisement and considered by ABOEE following the public comment meeting. ABOEE moved to proceed with the adoption of the Code with exceptions. ABOEE reminded all who commented regarding the HVACR licensee exemptions that the change was based on Act 746 of 2025 and that the amount of wiring that could be run was changed statutorily.

3. Commenter Name: Lucas Stewart, Vice President, Arkansas Chapter IAEI

Comment Summary: (a) Mr. Stewart expressed his disagreement with the reduction of years of work experience required for an electrical inspector. He implied the reduction in years would allow anyone who worked at Lowes, Dollar General, Walmart, etc. would qualify for an inspector license. (b) Mr. Stewart expressed his opinion on the type of certification an electrical inspector should be required to receive from ICC. (c) Mr. Stewart stated ABOEE should approve continuing education, not the Department. (d) Mr. Stewart opposed the proposed change regarding apprentices repeating the 4th year of school if they fail to pass the exam within 1 year. (e) Mr. Stewart expressed liability concerns regarding types of occupancy.

ABOEE Response: ABOEE received Mr. Stewart's comments both in writing and orally. The comments were taken under advisement, however the only change made relating to his comments were about item (d).

4. Commenter Name: Tim McClintock, NFPAB

Comment Summary: (a) Mr. McClintock spoke to ABOEE regarding the steps involved in adopting the National Electrical Code and the facilitation of the process. (b) Mr. McClintock expressed concerns over adopting the National Electrical Code with exceptions regarding GFCI.

ABOEE Response: ABOEE received Mr. McClintock's comments orally. ABOEE considered all comments regarding the adoption of the National Electrical Code with exceptions following the public comment meeting. ABOEE moved to proceed with the adoption of the Code with exceptions.

5. Commenter Name: Jim Burbridge, OTCEAP

Comment Summary: Mr. Burbridge expressed concerns regarding 4th year apprentices and what happens if they do not pass the examination.

ABOEE Response: ABOEE received Mr. Burbridge's comments orally. Mr. Burbridge's comments were taken under advisement and considered by ABOEE following the public comment meeting. ABOEE revised the proposed change regarding 4th year apprentices based on multiple public comments.

6. Commenter Name: Brian Baughman, Field Rep., NEMA

Comment Summary: Mr. Baughman expressed concerns with the GFCI exceptions to the 2026 National Electrical Code as proposed by ABOEE. He was against the exceptions because of data on electrocutions.

ABOEE Response: ABOEE received Mr. Baughman's comments orally.

ABOEE considered all comments regarding the adoption of the National Electrical Code with exceptions following the public comment meeting. ABOEE moved to proceed with the adoption of the Code with exceptions.

7. Commenter Name: Gerry O'Connor, Eaton

Comment Summary: Mr. O'Connor expressed his disagreement with the proposed exceptions to the 2026 National Electrical Code regarding GFCI. Mr. O'Connor spoke of his position within Eaton and how he receives emails regarding issues with Eaton's products in the field. He went on to discuss the changes Eaton has made in manufacturing regarding GFCI.

ABOEE Response: ABOEE received Mr. O'Connor's comments orally. ABOEE considered all comments regarding the adoption of the National Electrical Code with exceptions following the public comment meeting. ABOEE moved to proceed with the adoption of the Code with exceptions.

8. Commenter Name: Don Iverson, SQD

Comment Summary: Mr. Iverson encouraged ABOEE to adopt the 2026 National Electrical Code in its entirety, not with exceptions regarding GFCI. He informed ABOEE that manufactures were in the process of making new breakers and have been for over 4 years, that there have been deaths of technicians resulting from GFCI related instances, and that there has been no issue with SQD products.

ABOEE Response: ABOEE received Mr. Iverson's comments orally. ABOEE considered all comments regarding the adoption of the National Electrical Code with exceptions following the public comment meeting. ABOEE moved to proceed with the adoption of the Code with exceptions.

9. Commenter Name: Charles Covington

Comment Summary: Mr. Convington asked questions regarding the 2026 National Electrical Code exceptions and the applicability to refrigerator locations.

ABOEE Response: ABOEE received Mr. Convington's comments orally. ABOEE member answered Mr. Covington's questions during the meeting.

10. Commenter Name: Representative Richard McGrew

Comment Summary: Representative McGrew expressed concerns regarding 4th year apprentices and the proposed requirement to have an apprentice repeat the 4th year of school if unable to pass the exam in 1 year.

ABOEE Response: ABOEE received Representative McGrew's comments orally. Representative McGrew's comments were taken under advisement and considered by ABOEE following the public comment meeting. ABOEE revised the proposed change regarding 4th year apprentices based on multiple public comments.

Camille Fleming, an attorney with the Bureau of Legislative Research, asked the following question:

1. **QUESTION**. 17 CAR § 210-403(c)(6) [This used to be 603]. Acts 2025, No. 746 amended the license examination fees. One of the changes was changing “specialist sign electrician” to “specialist sign electrician with parking lot endorsement”. This change does not appear to be reflected in this section of the rule. Is there a reason the agency chose not include the “with parking lot endorsement” language? **RESPONSE**: In response to your question, it was a simple oversight in the fees section, which we will gladly correct. I will also review the citations and ensure they are accurate as well.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that there is no financial impact.

LEGAL AUTHORIZATION: It shall be the duty of the Board of Electrical Examiners of the State of Arkansas to adopt rules as necessary for the implementation of Arkansas Code § 17-28-101 et seq., which pertains to electricians, and Arkansas Code § 17-55-101 et seq, which pertains to electrical inspectors. *See* Arkansas Code § 17-28-202(a)(1). Further authority for the board to promulgate rules necessary to implement Arkansas Code § 17-55-101 et seq., can be found at Arkansas Code § 17-55-106.

The board is empowered to adopt rules to establish statewide standards for the construction, installation, and maintenance of electrical facilities and the performance of electrical work, and shall adopt the National Electrical Code, 1990 edition, of the National Fire Protection Association. *See* Arkansas Code § 20-31-104(a) and (b). Should there be any updates to the National Electrical Code, the board shall adopt any changes and editions which it determines necessary to ensure the public health and safety. *See* Arkansas Code § 20-31-104(c).

The board is also authorized to conduct examinations of persons applying for master electrician, journeyman electrician, industrial maintenance electrician, residential master electrician, specialist sign electrician, or residential journeyman electrician licenses. *See* Arkansas Code § 17-28-203(a). The applicants shall pay fees established by the board but in no event shall the examination fees exceed the examination fees set out in Arkansas Code § 17-28-203(a).

This rule implements Acts 2025, No. 746, sponsored by Senator Missy Irvin, which assisted the administration of the Code Enforcement Section of the Department of Labor and Licensing, repealed the electrical contractor and air conditioning electrician licenses, transferred and upgraded the Class C HVACR license, improved the licensing of apprentice electricians, helped the elevator owners satisfy testing requirements, clarified annual licensing renewal periods, and aided in the administration of the state's electrician, HVACR, elevator, and boiler safety laws.

17. Department of Parks, Heritage, and Tourism, State Parks, Recreation, and Travel Commission (Jeff King, Mike Wilson, Marty Ryall)

a. General Rules, Firearms, hunting, explosives, and fireworks, 22 CAR § 50-114

<u>DESCRIPTION</u>: The Department of Parks, Heritage, and Tourism's State Parks, Recreation, and Travel Commission seeks to amend its General Rules, specifically 22 CAR § 50-114, which concerns firearms, hunting, explosives, and fireworks.

These rules need to be amended to reflect updated Arkansas and Federal laws. The amendments update the current rule published in 2005 to be in compliance with current laws governing weapons, including possession of firearms. The revised rule maintains restrictions on discharging, shooting, or firing a weapon outside of designated areas. The revised rule expands hunting beyond Hobbs State Park-Conservation Area to include all Wildlife Management Areas co-managed by Arkansas State Parks and the Arkansas Game and Fish Commission.

Post Public Comment: The agency indicated the following changes to the rule following the close of the public comment period: 1) A reference to Arkansas Code § 5-73-101(7) was made in 22 CAR § 50-114(d)(1);
2) The language of 22 CAR § 50-114(e)(1)(A) was revised to remove an inadvertent "or" for clarity.

<u>PUBLIC COMMENT</u>: A public hearing was held on July 13, 2026. The public comment period expired on July 13, 2026. The agency indicated that it did not receive any public comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following questions and was provided with the following agency responses:

1) 22 CAR § 50-114(d)(1) refers to Arkansas Code § 5-73-101(7), however, the number 5 has a strikethrough. Was this intentional? **RESPONSE:** The reference has been corrected to include the number 5.

2) 22 CAR § 50-114(e)(1)(A) – Is there an inadvertent "or" in this sentence, between "event" and "fireworks"? **RESPONSE:** The agency agrees and has revised the language for clarity.

3) 22 CAR § 50-114(b) – Was this subsection, which concerned concealed handguns, repealed in response to state or federal law? **RESPONSE:** This section is being repealed to better align the rule with current state law.

The proposed effective date is September 1, 2026.

<u>FINANCIAL IMPACT</u>: The agency has indicated that the proposed rules do not have a financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code § 22-4-104(a), the State Parks, Recreation, and Travel Commission may establish and alter rules governing the use and protection of the state parks system and the property thereon and to preserve the peace therein.

b. General Rules, Hang gliding and paragliding rules, 22 CAR § 50-115

DESCRIPTION: The Department of Parks, Heritage, and Tourism's State Parks, Recreation, and Travel Commission seeks to amend its General Rules, specifically 22 CAR § 50-115, which concerns hang gliding and paragliding.

These amendments adjust the amounts of required liability insurance for pilots, add additional requirements for passengers, and clarify the language relating to ratings requirements for pilots.

PUBLIC COMMENT: A public hearing was held on July 13, 2026. The public comment period expired on July 13, 2026. The agency provided the following public comment summary:

Commenter Name: Steve Arnold, President of the Buffalo Mountain Flyers (BMF)

COMMENT: He extended his appreciation to Arkansas State Parks for making the necessary changes to the park directive that will allow all qualified United States Hang Gliding and Paragliding Association members to have access to flying these sites without having to purchase additional personal liability insurance. He believes this change will increase the flying activities at these sites. **RESPONSE:** No agency response.

Commenter Name: Britton Shaw, gliding flight instructor based in Arkansas

COMMENT: Expressed strong support and appreciation for the proposed change to the park directive regarding personal liability insurance. Stated that reverting the requirement back to the previous coverage removes an unintentional but severe financial barrier that previously sidelined roughly half of our state's active pilots. Stated that aligning with standard United States Hang Gliding and Paragliding Association (USHPA) member coverages will immediately restore access to our world-class launch sites for standard, qualified pilots. This change will not only safely revitalize foot traffic and flying activities at these parks, but it will also bring back the positive economic impact of visiting pilots to our local communities. **RESPONSE:** No agency response.

Commenter Name: Roy Mahoney, past president and current member of Buffalo Mountain Flyers

COMMENT: He supports the proposed change to the park directive regarding personal liability insurance. He believes this will remove the roadblock a majority of members from Arkansas and nearby states have experienced when wanting to fly at these sites, by no longer having to buy additional personal liability insurance. All USHPA intermediate & advanced pilots will be eligible to come and fly at the State Park sites with the standard insurance that comes with their membership which means more pilots flying these sites, increasing tourism and all its benefits. **RESPONSE:** No agency response.

Commenter Name: Stan Morris, member of Buffalo Mountain Flyers

COMMENT: He strongly supports the proposed change to the park directive regarding the personal liability insurance requirements for hang gliding and paragliding pilots. He applauds the effort to allow local and visiting pilots the opportunity to fly our world-class launch sites at Mt. Magazine and Mt. Nebo with the required personal liability insurance our national organization (United States Hang Gliding and Paragliding Association) provides on behalf of its membership. **RESPONSE:** No agency response.

Commenter Name: Mark Stump, Buffalo Mountain Flyers Site Coordinator for Mount Magazine and Mount Nebo

COMMENT: Expressed strong support and appreciation for the proposed change to the park directive regarding personal liability insurance. The previous PLI coverage requirement unintentionally created a significant financial barrier on all USHPA active pilots wanting to fly Arkansas State Parks sites. Changing the park directive to align with standard USHPA member coverages immediately restores access to launch sites for all qualified USHPA pilots. This change will revive flying activities at these parks and will also bring back positive economic impacts of visiting pilots to our local communities. **RESPONSE:** No agency response.

Commenter Name: Aaron Albright, landing zone owner for Mount Magazine (third generation owner since 1975)

COMMENT: Expressed support of making the necessary changes to the park directive that will allow all qualified hang gliding and paragliding pilots to have access to flying these sites without having to purchase additional personal liability insurance. States that change will benefit the Mount Magazine state park by allow more pilots to fly this site, which is an attraction for visitors staying at the lodge and visiting the park. **RESPONSE:** No agency response.

Statements from Public Comment Meeting:

Barron McKinley of Little Rock appeared in person and expressed support for the amendment to the rule.

Mark Stump of Greenland appeared in person and expressed support for the amendment to the rule.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and was provided with the following agency response:

1) 22 CAR § 50-115(b)(1)(B) – Is the adjustment in required personal liability insurance, from one million dollars ($1,000,000) to five hundred thousand dollars ($500,000), the result of a change in state or federal law? **RESPONSE**: This is not the result of a change in state or federal law.

The proposed effective date is September 1, 2026.

FINANCIAL IMPACT: The agency has indicated that the proposed rules do not have a financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code § 22-4-104(a), the State Parks, Recreation, and Travel Commission may establish and alter rules governing the use and protection of the state parks system and the property thereon and to preserve the peace therein.

18. Department of Shared Administrative Services, Employee Benefits Division (Jessica Patterson, Grant Wallace)

a. Independent Vendor Data Audit Process, 21 CAR pt. 51

DESCRIPTION: Act 956 of 2025 requires the Employee Benefits Division within the Department of Shared Administrative Services to develop and implement an independent audit process ("IAP") to verify the accuracy of data that vendors provide to EBD.

21 CAR § 51-104 requires that a vendor contracting with EBD, where a fiscal impact is required, agree to verify the accuracy of all data provided to the State; that all vendors contracting with EBD must agree to an IAP as a condition to contract award; and that EBD cannot contract with any vendor that refuses to submit to the independent audit process.

21 CAR § 51-105 requires the Director of EBD to implement the requirement of an IAP to verify the accuracy vendor-provided data, and the Director may request any vendor to submit to an IAP at any time during the contract period.

21 CAR § 51-106 requires vendors that are found through an IAP to have provided inaccurate data be subject to civil penalties as required by law, including Act 956 of 2025, as well as potential loss of licensure or authorization to operate in this state.

PUBLIC COMMENT: A public hearing was held on July 2, 2026. The public comment period expired on July 14, 2026. The agency indicated that it did not receive any public comments.

Camille Fleming, an attorney with the Bureau of Legislative Research, asked the following questions:

1. **QUESTION**. 21 CAR § 51-104. Will the stipulation that a vendor must submit to an independent audit for data verification purposes be included in any RFP and RFQ applications, or other similar applications, or will this requirement first be mentioned in the contract? **RESPONSE**: Yes, we

will make it a part of future RFP/RFQ's as a requirement. For a little more clarification, the initial solicitation document will become a part of the contract itself — so vendors will be made aware of it in the initial posting of the solicitation, and then that document will also be a part of the signed contract.

2. **QUESTION**. Will this independent audit process be conducted by EBD or will EBD contract with a third party that will conduct the audits on behalf of EBD? **RESPONSE**: EBD will contract with an independent third party that will conduct the audits on behalf of EBD.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact. With respect to the total estimated cost by fiscal year to a state, county, or municipal government to implement the rule, the agency indicated:

> The estimated yearly fiscal cost is between $0-$200,000. While it is unlikely that the yearly fiscal cost will exceed $100,000, a written findings is being submitted simultaneously to this financial impact statement.
>
> There could be a significant variance in cost depending on the year. The main factors in the fiscal impact of these rules depend on (1) how many bills in a legislative session impact EBD; (2) how many fiscal impact statements or data for fiscal impact statements are needed from EBD vendors, and (3) subsequently, how many audits are conducted based on that data pursuant to Act 956 and these rules. Because Act 956 and these rules are permissive, the cost to the state will depend on how many audits are conducted.

The agency indicated that there could be a new or increased cost or obligation of at least $100,000 per year to a private individual, private entity, private business, state government, county government, municipal government, or to two or more of those entities combined. Accordingly, the agency provided the following written findings:

> It is unlikely that the cost or obligation of the state will exceed $100,000 yearly, but the actual cost is unable to be determined. Because EBD is able to determine what data is subject to an audit, and because it is not mandatory for audits to be performed on data submitted for every fiscal impact statement, costs will likely remain under $100,000. However, because audits will be conducted and billed on an hourly basis, whether costs exceed $100,000 depends on how many audits are performed each year and how extensive each audit is.

(1) a statement of the rule's basis and purpose;

These rules implement Act 956 of 2025, which require an independent audit process to verify the accuracy of data provided to vendors.

(2) the problem the agency seeks to address with the proposed rule,

including a statement of whether a rule is required by statute;

See above. 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;

N/A. Required by statute.

(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;

There are no less costly alternatives. Required by statute.

(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;

N/A.

(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

No existing rules have created or contributed to the problem.

(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.

EBD will conduct a review every other year to analyze the costs associated with the rule after it becomes effective. Once EBD obtains results on how many audits are performed each fiscal and general session, it can determine if the costs associated with the independent audits of the vendor data are justified. Because the rule is being promulgated pursuant to the requirements of Ark. Code Ann. § 21-5-425, it will be unable to be repealed unless the statute is repealed. Based on the review of overall costs, EBD will be able to determine whether any amendments are available to reduce costs.

The proposed effective date is pending legislative review and approval.

LEGAL AUTHORIZATION: The director of the Employee Benefits Division shall administer Arkansas Code § 21-5-401 et seq., which is the subchapter of the Arkansas Code that concerns the State and Public

School Life and Health Insurance Program, and the rules and orders of the State Board of Finance. *See* Arkansas Code § 21-5-406(d). The director shall promulgate rules to implement Arkansas Code § 21-5-425, which concerns rules, civil penalties, and the independent audit process for the verification of data of vendors for the State Public School Life and Health Insurance Program. *See* Arkansas Code § 21-5-425(e).

This rule implements Acts 2025, No. 956, sponsored by Senator Kim Hammer, which required a vendor that contracts with the Employee Benefits Division to submit data for verification by an independent audit and imposed a civil penalty on a vendor that provides inaccurate data.

19. Section 529 Plan Review Committee (Michael Harry)

a. Arkansas Brighter Future Fund Plan, 6 CAR pt. 560

DESCRIPTION: The proposed rule changes to the Section 529 Plan rules will implement changes to the law that will now allow plan participants to roll funds over to a ROTH account. Additionally, the rule changes will implement the prohibition on investing in Chinese owned companies included in Act 937 of 2025.

PUBLIC COMMENT: A public hearing was held on December 5, 2025. The public comment period expired on December 7, 2025. The agency indicated it did not receive any public comments.

Camille Fleming, an attorney with the Bureau of Legislative Research, asked the following questions:

1. **QUESTION**: 6 CAR § 560-102(31): The definition “rollover to Roth or individual retirement account” was added to this rule. I see that this language was likely mirrors Acts 2025, No. 802. However, the definition used in the act is titled “Rollover to Roth individual retirement account”, which does not include the “or” mentioned in the rule’s definition. Is there a reason these terms differ? **RESPONSE**: The Committee agreed to remove the definition as unnecessary.

2. **QUESTION**: 6 CAR § 560-103(b)(1)(D): This new language references “guidelines” that the Section 529 Plan Review Committee has established. Are these guidelines accessible to the public? **RESPONSE**: The “guidelines” refers to the Committee’s investment policy. It is available to the public upon request but is not posted online at this time.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule promulgation has no financial impact.

LEGAL AUTHORIZATION: The Section 529 Plan Review Committee shall adopt such rules as it deems necessary and proper to administer the Arkansas Brighter Future Fund Plan Act, Arkansas Code § 6-84-101 et seq., and to ensure the compliance of the Arkansas Brighter Future Fund

Plan with 26 U.S.C. § 529, as in effect on January 1, 2024. *See* Arkansas Code § 6-84-105(b). Furthermore, the committee shall have the power to establish, develop, implement, and maintain the plan in a manner consistent with the provisions of the Arkansas Brighter Future Fund Plan Act, and 26 U.S.C. § 529, as in effect on January 1, 2024, and to obtain the benefits provided by 26 U.S.C. § 529 for the plan, account owners, and designated beneficiaries. *See* Arkansas Code § 6-84-105(c)(1). The committee shall have the power to adopt rules for the general administration of the plan. *See* Arkansas Code § 6-84-105(c)(2).

This rule implements Acts 2025, No. 615, sponsored by Senator Clark Tucker, which amended the law concerning the Arkansas Brighter Future Fund Plan Act, allowed nonprofit organizations to contribute to a new or existing Arkansas Brighter Future Fund plan account, and required the Treasurer of State to facilitate contributions by a nonprofit organization.

This rule implements Acts 2025, No. 802, sponsored by Representative Karilyn Brown, which amended the Arkansas Brighter Future Fund Plan Act, adopted changes in federal law concerning tax-deferred tuition savings programs, amended the law concerning income tax liability for distributions from an Arkansas Brighter Future Fund Plan or other tax-deferred tuition savings program to a Roth Individual Retirement Account, and adopted federal law concerning the income tax treatment of rollover contributions from an Arkansas Brighter Future Fund Plan or other tax-deferred tuition savings program to a Roth Individual Retirement Account.

This rule implements Acts 2025, No. 937, sponsored by Representative Howard Beaty Jr., which amended various laws concerning actions related to certain foreign entities, withheld funding for state-supported institutions of higher education with a Confucius institute or similar institute related to the People's Republic of China, prohibited a state-supported institution of higher education from investing in Chinese funds, prohibited the establishment of sister cities with certain prohibited foreign parties, and prohibited the investment of retirement and pension funds in Chinese funds.

20. Treasurer of State, Achieving a Better Life Experience Program Committee (Michael Harry)

a. Achieving a Better Life Experience Program Rules, 20 CAR pt. 930

DESCRIPTION: This rule amends the current rules in order to implement the changes included in the federal regulations that raise the onset age from 26 to 46; additionally the changes will implement the prohibition on investments with Chinese-owned companies from Act 937 of 2025.

PUBLIC COMMENT: A public hearing was held on December 5, 2025. The public comment period expired on December 7, 2025. The agency indicated that no public comments were received.

Camille Fleming, an attorney with the Bureau of Legislative Research, had the following comments to the agency regarding this rule:

1. **COMMENT**. 20 CAR § 930-102: The definition “age-based option” was removed in this amendment. However, the phrase is still present in the rule at 104(b)(1)(D). I saw that the phrase was removed in (b)(3), so I wanted to mention this other instance. **RESPONSE**: “Age-based option” was replaced with “portfolios.”

2. **COMMENT**: 20 CAR § 930-102(10): The definition “authorized individual” was added in this amendment. However, it does not appear that this phrase is used anywhere in the rule. CAR style encourages agencies to only define words they plan on using within the rule. I wanted to mention this in case it was accidentally left out in the rule. **RESPONSE**: The definition of “authorized individual” was removed.

3. **COMMENT**. 20 CAR § 930-104(d): This new subsection cites to Arkansas Code § 25-1-1203 et seq. This current citation would not include 25-1-1201 or 25-1-1202. CAR style encourages the use of “et seq” at the beginning of an Arkansas Code subchapter, and not in the middle of it. I wasn’t sure if this was an intentional citation or a typographical error. **RESPONSE**: The inclusion of “et seq” was a typographical error.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule promulgation has no financial impact.

LEGAL AUTHORIZATION: The Achieving a Better Life Experience Program Committee shall adopt rules necessary to administer the Achieving a Better Life Experience Program Act, Arkansas Code § 20-3-101 et seq., and to ensure compliance with the Achieving a Better Life Experience Program as provided under the Tax Increase Prevention Act of 2014, Pub. L. No. 113-295, and federal regulations under the Tax Increase Prevention Act of 2014, Pub. L. No. 113-295. *See* Arkansas Code § 20-3-105(c). The committee shall also adopt rules for the general administration of the Achieving a Better Life Experience Program. *See* Arkansas Code § 20-3-105(d)(2).

According to Arkansas Code § 20-3-106(1), rules adopted under the Achieving a Better Life Experience Program Act shall ensure that a rollover from an ABLE account does not apply to an amount paid or distributed from the ABLE account to the extent that, not later than the sixtieth day after the date of the payment or distribution, the amount received is paid into another ABLE account for the benefit of the same designated beneficiary or an eligible individual who is a member of the family of the designated beneficiary, and this limitation does not apply to a transfer if the transfer occurs within twelve (12) months after the date of a previous transfer under this chapter for the benefit of the designated beneficiary. Arkansas Code § 20-3-106 further continues, stating that the rules adopted shall ensure that a person may make contributions for a taxable year for the benefit of an individual who is an eligible individual for the taxable year to an ABLE account that is established to meet the qualified disability expenses of the designated beneficiary of the ABLE account, a designated beneficiary is limited to one (1) ABLE account, an ABLE account may be established only for a designated beneficiary who is a resident of Arkansas or a resident of a contracting state, and other requirements of the act shall be met. *See* Arkansas Code § 20-3-106(2) – (5).

This rule implements Acts 2025, No. 875, sponsored by Representative Julie Mayberry, amended the Achieving a Better Life Experience Program Act and amended the definitions of "disability certification" and "eligible individual" to change disability onset age from twenty-six to forty-six.

This rule implements Acts 2025, No. 937, sponsored by Representative Howard Beaty Jr., which amended various laws concerning actions related to certain foreign entities, withheld funding for state-supported institutions of higher education with a Confucius institute or similar institute related to the People's Republic of China, prohibited a state-supported institution of higher education from investing in Chinese funds, prohibited the establishment of sister cities with certain prohibited foreign parties, and prohibited the investment of retirement and pension funds in Chinese funds.

21. Upper Southwest Regional Solid Waste Management District (Mitchell Noble, Nathan Coulter)

a. Rules of the Upper Southwest Regional Solid Waste Management District, 8 CAR pt. 370

DESCRIPTION: Pursuant to Arkansas Code Annotated § 8-6-712, the Upper Southwest Regional Solid Waste Management Board (hereinafter referred to as the "District") is vested with the authority and responsibility to promulgate rules and regulations governing the collection, disposal, and treatment of solid waste within its jurisdictional boundaries.

The purpose of this rulemaking is to establish regulations governing the licensing of solid waste haulers, the certificate of need process, and flow control of solid waste within the District. In accordance with Act 752 of 1991, the District is required to promulgate rules that are consistent with, but not more restrictive than, applicable state standards and laws. *See* Ark. Code Ann. § 8-6-712(b). Furthermore, Ark. Code Ann. § 8-6-704(6) authorizes regional solid waste management boards to adopt rules pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq., as are reasonably necessary to ensure public notice and participation in any findings or ruling of the board and to administer the duties assigned thereto.

Accordingly, these rules are promulgated to: (a) implement a licensing requirement for solid waste haulers operating within the District; (b) establish a waste flow control system; and (c) institute a Certificate of Need application and review process for the District, all as authorized under applicable provisions of Arkansas law.

PUBLIC COMMENT: A public hearing was not held on this matter. The public comment period expired on June 27, 2026. The agency indicated that it received no public comments.

Grant Wise, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses from the agency:

1. 8 CAR § 370-101 – This section of the rules seems to track the original language in Acts 1989, No. 870, § 4, which was codified in Arkansas Code § 8-6-704. The statute, however, has been revised quite a bit since then. Is there a reason the rule does not track the current language of the statute? **RESPONSE:** The District has not updated the rule since it was passed internally some years ago (prior to the District recently determining that its rules should be properly promulgated), which is probably why the statutory reference has not been updated. We have revised the proposed rule with "as amended" language.

2. 8 CAR § 370-101(b)(4) – This provision appears to be premised on Arkansas Code § 8-6-704(a)(4) and provides that the board has the power and duty to "[i]ssue or deny certificates of need to any applicant for a solid waste disposal facility permit within the jurisdiction." However, where the rule ends, Arkansas Code § 8-6-704(a)(4) contains additional language not found in the rule, providing "with the exception of permits for landfills when a private industry bears the expense of operating and maintaining the landfill solely for the disposal of waste generated by the industry or wastes of a similar kind or character." Is there a reason this additional statutory language was omitted from the rule? **RESPONSE:** Our position is that Class 3N landfills aren't subject to the certificate of need requirements. The exemption for Class 3N landfills is located in 8 CAR 50-205(a).

3. 8 CAR § 370-201(2)(C)(ii) – The provision seems premised on Arkansas Code § 8-6-706(a)(2), which provides that the Division of Environmental Quality may deny any permit based upon the denial of a certificate of need by any board. Is there a reason the rule refers to the Arkansas Pollution Control and Ecology Commission rather than the Division of Environmental Quality in this subdivision? **RESPONSE:** We have updated to the Division of Environmental Quality.

4. 8 CAR § 370-201(5) – This subdivision includes a definition for "interested party" and seems to be premised on the definition found at Arkansas Code § 8-6-702(5). The statute includes the Director of the Division of Environmental Quality or his or her designee as an interested party, while the rule seems to substitute "The Executive Director of the

Upper Southwest Regional Solid Waste Management District or his or her designee". Is there a reason the rule's definition does not track that in the Arkansas Code? **RESPONSE:** No, we have updated to the Director of the Division of Environmental Quality.

5. 8 CAR § 370-201(6) – It appears that this definition tracks the language in Acts 1989, No. 870; however, the definition has been revised as found in Arkansas Code § 8-6-702(6). Is there a reason the rule doesn't track the current definition? **RESPONSE:** We have revised the proposed rule with "as amended" language.

6. 8 CAR § 370-201(7) – Similarly to the question concerning subsection (6), it appears that the definition of "solid waste" tracks the language from Acts, 1989, No. 870, rather than Arkansas Code § 8-6-702. Is there a reason? **RESPONSE:** We have updated the proposed rule with the current definition.

7. 8 CAR § 370-201(8) – This subdivision contains a definition for "solid waste facility". "Solid waste disposal facility" has been referenced within other definitions in this section. Is there a difference between a "solid waste facility" and a "solid waste disposal facility"? **RESPONSE:** We have been monitoring a Court of Appeals case (Case No. CV-24-209) that deals with statutory interpretation of whether a transfer station is a solid waste disposal facility. Because transfer stations will require a certificate of need regardless of this decision, we believe it is in the interest of clarity to make the defined term "solid waste facility" and eliminate the issue of whether "disposal" of waste is a deciding factor. We have updated the proposed rule.

8. 8 CAR § 370-203(e) – This subsection of the rule seems to track the language in Acts 1989, No. 870, rather than that in Arkansas Code § 8-6-706(b)(2). Is there a reason? **RESPONSE:** We have updated the proposed rule with the current definition.

9. 8 CAR § 370-207(c)(1) – This provision provides that prior to "the adoption of this part and any revisions to this part, the board shall conduct a public hearing not less than twenty (20) days before the effective date of adoption." Based on the questionnaire submitted by the board, it does not appear that a public hearing has been scheduled for this rule. Will a public hearing take place for this rule? **RESPONSE:** The District planned to have a public hearing if the requirements stipulated under 25-15-204(2)(B) were met, but because the 30-day notice period ended without any responses or comments, the District did not meet the 25-person request threshold and does not plan to host a public hearing at this time.

10. 8 CAR § 370-208(h)(3)(B) – So that I am clear, what specific procedures outlined in this section will the board follow for the withdrawal of a certificate of need? **RESPONSE:** If an applicant requests to withdraw a certificate of need notice or application, it will be withdrawn to comply with the applicant's wishes without resistance and a

letter of acknowledgement will be sent. If the District's board determines that the applicant is not making a good faith effort to meet the established timetables, the board would notify the applicant that the board would authorize the Executive Director of the District to revoke the application and require that the process begin again if the applicant decided to proceed.

11. 8 CAR § 370-212 – Should the executive head of the Division of Environmental Quality be referred to as the "Director" rather than the "Executive Director"? *See* Arkansas Code § 25-43-605(a)(1). **RESPONSE:** We have revised the proposed rule to use "Director."

12. 8 CAR § 370-303 – This section provides that any person applying for a license to haul solid waste must establish financial responsibility. How is financial responsibility established? **RESPONSE:** According to the District's standards, proof of minimum required insurance establishes financial responsibility.

13. 8 CAR § 370-308(b)(1) – This provision mentions "tipping fees".

a. Are tipping fees different from disposal fees? How are they calculated (flat rate, based on weight, etc.)? **RESPONSE:** No, they are not different when referring to a landfill. The District charges by the ton for most items and by the yard for some special waste (like asbestos), and these tipping fees are approved by the District's board of directors.

b. Arkansas Code § 25-15-105(b)(2)(A) provides that an agency assessing or imposing a fee or penalty shall promulgate the fee or penalty by rule. Arkansas Code § 25-15-105(b)(2)(B) follows and provides that an agency is not required to promulgate a fee or penalty by rule if the specific amount of the fee or penalty is set by statute. This section does not appear to specify an amount for tipping fees. Are tipping fees provided for elsewhere in the board's rules or the Arkansas Code? If not, does the board plan to promulgate the fee amount? **RESPONSE:** The District's tipping fees are compliant with the limitations set out specifically in Title 8 Chapter 6.

14. 8 CAR § 370-412(b) –

a. This subsection mentions haul fees and waste container fees. What exactly are these fees? **RESPONSE:** Haul fees are the fees the District charges to send its truck to haul waste, while the waste container fees are rents the District charges for the customer to have use of its waste container.

b. This subdivision provides the Executive Director of the Upper Southwest Regional Solid Waste Management Board *may* establish haul fee and waste container fees on a case-by-case basis, depending on each job's time requirement and distance from the regional landfill. (Emphasis added.) Are these fees currently being levied in practice? If so, how are they calculated and when are they imposed? If not, when or under what circumstances does the agency anticipate imposing these fees? **RESPONSE:** Yes, the District is currently charging customers for these services provided, and they use the distance and the time required to service a particular location or job based on each situation to calculate the fee.

c. Arkansas Code § 25-15-105(b)(2)(A) provides that an agency assessing or imposing a fee or penalty shall promulgate the fee or penalty by rule. Arkansas Code § 25-15-105(b)(2)(B) follows and provides that an agency is not required to promulgate a fee or penalty by rule if the specific amount of the fee or penalty is set by statute. If the agency answered yes to the previous question, can the amounts or rates for haul fees and waste container fees be found in the Arkansas Code or the agency's rules? If so, where? If not, does the board plan to promulgate the fee amounts? **RESPONSE:** The District's fees that are being charged are compliant with the limitations set out specifically in Title 8 Chapter 6.

15. 8 CAR § 370-413 – Is this section premised on Arkansas Code § 8-6-809? If so, will the rates, fees, and charges be fixed in accord with the statute? **RESPONSE:** Yes. The section is premised on Arkansas Code § 8-6-809, and the fees are fixed in accordance with the statute. The District has a bond that will be paid off on December 1, 2027, and the rates are set and the payments are budgeted each year to ensure that the payments are made. The trustee for the bond is Community First Trust.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated this rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code § 8-6-704(a)(6), regional solid waste management boards have the power and duty to adopt rules under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., as are reasonably necessary to administer the duties of the regional solid waste management boards. A regional solid waste management board may fix, charge, and collect rents, fees, and charges of no more than two dollars ($2.00) per ton of solid waste related to the movement or disposal of solid waste within the regional solid waste management district, including without limitation fees and charges related to the district's direct involvement with the district's disposal or treatment or that support the district's management of the solid waste needs of the district. *See* Arkansas Code § 8-6-714(a)(1)(A). Further, the board may fix, charge, and collect fees or charges for solid waste generated within or without the district delivered to a landfill or transfer station within the district, regardless of whether the disposal facilities are owned or operated by the district or within the district but delivered to a location outside the district. *See* Arkansas Code § 8-6-714(a)(2).

F. Evaluation of Rule Review Group 3 Agencies Pursuant to Act 781 of 2017 and Act 65 of 2021

1. Department of Education, Office of Early Childhood (Courtney Salas-Ford)

G. Agency Updates on the Status of Outstanding Rulemaking from the 2023 Regular Session Pursuant to Act 595 of 2021[1]

1. Department of Education (Courtney Salas-Ford)

Rules Outstanding as of August 1, 2026, as Reported and Updated by the Agency

Arkansas State Library

- Rules Governing the Standards for State Aid to Public Libraries (Act 566 of 2023, § 11)
  - Rulemaking regarding Act 566 of 2023 was temporarily suspended due to the passage of Act 903 of 2025. A draft of this rule completed its public comment period on June 15, 2026. The rule draft will be considered at the next meeting of the board on August 14, 2026.

Division of Career and Technical Education

- Rules Governing Grading and Course Credit[2] (Act 654 of 2025, § 4)
  - This rule is in its second round of public comments which will end on September 2, 2026.

Division of Elementary and Secondary Education

- Rules Governing School District Waivers (Act 347 of 2023, § 1)
  - The agency has redrafted this rule due to the enactment of Act 304 of 2025. The rule is a top priority for the current round of rulemaking. It is anticipated that the rule will be released for public comment in September.
- Rules Governing Grading and Course Credit (Act 654 of 2023, §§ 2, 4)
  - This rule is in its second round of public comments which will end on September 2, 2026.

[1] Outstanding rules from the 2023 Regular Session that are on the current agenda for legislative review and approval are designated by an asterisk (*)

[2] Per the agency, prior reports had indicated that rulemaking for Act 654, §4, would be addressed in a new rule; however, this rulemaking requirement has instead been incorporated into the Rules Governing Grading and Course Credit.

State Board of Education

- *Rules Governing the Course Choice Program (Act 237 of 2023, § 20)
  - The State Board of Education has approved a final draft of this rule, and it has been submitted for review by the ALC Rules Subcommittee in August.
- Rules Governing Public Charter Schools (Act 237 of 2023, § 49)
  - The agency has redrafted this rule due to the enactment of Act 800 of 2025. The rule is a top priority for the current round of rulemaking. It is anticipated that the rule will be released for public comment in September.

H. Agency Updates on the Status of Outstanding Rulemaking from the 2025 Regular Session Pursuant to Act 595 of 2021

1. **Arkansas Department of Transportation**
2. **Arkansas Ethics Commission**
3. **Arkansas Public Service Commission**
4. **Department of Agriculture**
5. **Department of Commerce, Arkansas Economic Development Commission**
6. **Department of Commerce, State Insurance Department**
7. **Department of Corrections**
8. **Department of Education**
9. **Department of Energy and Environment**
10. **Department of Finance and Administration**
11. **Department of Health**
12. **Department of Human Services**
13. **Department of Labor and Licensing**
14. **Department of Public Safety**
15. **Department of Shared Administrative Services**
16. **State Board of Finance**

I. Adjournment