

EXHIBIT I

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES

SUBJECT: Licensure of Nursing Home Administrators in Arkansas

DESCRIPTION: Act 1066 of 2015 requires licensing agencies to create reduced requirements to allow license holders that have allowed their licenses to lapse to re-license. The Office of Long Term Care licenses nursing facility administrators. Presently, a lapsed license requires an individual to complete the same requirements as a new applicant for licensure. The amendment to this rule complies with Act 1066 of 2015. It defines a lapse as the failure to pay the requisite renewal fee or to meet continuing education requirements for renewal within the last five years immediately preceding the application for renewal; requires that the applicant obtain twenty hours of continuing education credits; and requires the applicant to pay the applicable re-license fees. These proposed conditions ensures that the individual, who has previously been licensed, is familiar with the latest regulatory requirements while providing a means to re-license with requirements that are substantially reduced as compared to current requirements.

PUBLIC COMMENT: No public hearing was held. The public comment period expired on January 1, 2016. The Department received no comments from the public.

Michael Harry, an attorney with the Bureau of Legislative Research, asked the following question:

In Section H Subsection 4 it states that the applicant must complete 20 clock hours of CE or 6 semester hours, where did those time requirements come from? Are they required for all professionals in this field?

I'm specifically referring to Act 1066 page 2, line 27 where it creates subsection (d)(2). That subsection states "(2) The licensing entity may require the person to participate in continuing education or training if the continuing education or training is required for all professionals in the field to maintain the license, registration, or certification.

RESPONSE: Frank GoBell, DHS

Regarding the Continuing Education (CE) requirements, the amount of was established approximately thirty (30) years ago, based in part upon recommendations of the National Association of Long Term Care Administrator Boards (the NAB), which develops the national standards for long-term care administrators, and in part from stakeholders in the long-term care field in Arkansas.

No, those are not additional requirements – in fact, the opposite. Act 1066 of 2015 requires state agencies to create reduced requirements for reinstatement of a license under limited conditions. The section of the Act quoted below clarifies that, even with the reduced requirements in general, the licensing authority can still require the same CEs as is required for someone who is applying for licensure or renewal of a license. While the Office of Long Term Care was not involved in Act 1066, I would surmise that this was done to ensure that someone being re-licensed under the reduced requirements would

nevertheless be up-to-date on the latest information in the practice area to protect the public.

The proposed effective date is pending Legislative approval.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: This does not have a financial impact because it changes the procedures for a lapsed nursing facility administrator license to be re-licensed.

LEGAL AUTHORIZATION: This rule implements Act 1066 of 2015 that addressed the requirements for an individual with a licensed that had lapsed to be re-instated.

Arkansas Code Annotated § 20-10-203 gives the Office of Long-Term Care authority to promulgate such rules and regulations necessary to regulate the licensure of long-term care facility administrators.

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

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Medical Services
DIVISION DIRECTOR Dawn Stehle
CONTACT PERSON Stormy Smith
ADDRESS P.O. Box 8059, Slot S409, Little Rock, AR 72203-8059
PHONE NO. 501-320-6287 **FAX NO.** 501-682-1197 **E-MAIL** stormy.smith@dhs.arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Tami Harlan
PRESENTER E-MAIL tami.harlan@dhs.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

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1. What is the short title of this rule? Rules & Regulations for Licensure of Nursing Home Administrators in Arkansas
- To create reduced requirements for re-licensure of nursing home administrators who have allowed their licenses to lapse.
2. What is the subject of the proposed rule?
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation.
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule?

When does the emergency rule expire?

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule?

Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. § 20-10-203 and Act 1066 of 2015

7. What is the purpose of this proposed rule? Why is it necessary? To comply with the requirements of Act 1066 of 2015. That Act requires licensing agencies to create reduced requirements to allow license holders that have allowed their licenses to lapse to re-license.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://www.medicaid.state.ar.us/InternetSolution/general/comment/comment.aspx>

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

If yes, please complete the following:

Date:

Time:

Place:

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

January 1, 2016

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

March 1, 2016

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

If yes, please explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?
Please provide their position (for or against) if known.

None.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of Medical Services
PERSON COMPLETING THIS STATEMENT Lynn Burton
TELEPHONE NO. 501-682-1857 **FAX NO.** 501-682-3889 **EMAIL:** lynn.burton@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules & Regulations for Licensure of Nursing Home Administrators in Arkansas

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

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

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

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

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

Next Fiscal Year

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

Total _____

Total _____

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

Current Fiscal Year

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total \$0 _____

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total \$0 _____

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

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0 _____

\$ 0 _____

This rule change does not have a financial impact because it changes the procedures for a lapsed nursing facility administrator license to be re-licensed.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:

- (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
- (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

SUMMARY

Act 1066 of 2015 requires licensing agencies to create reduced requirements to allow license holders that have allowed their licenses to lapse to re-license. The Office of Long Term Care licenses nursing facility administrators. Presently, a lapsed license requires an individual to complete the same requirements as a new applicant for licensure. The amendment to this rule complies with Act 1066 of 2015. It defines a lapse as the failure to pay the requisite renewal fee or to meet Continuing Education requirements for renewal within the last five years immediately preceding the application for renewal; it requires that the applicant obtain twenty (20) hours of Continuing Education credits; and it requires the applicant to pay the applicable re-licensure fees. These proposed conditions ensures that the individual – who has previously been licensed – is familiar with the latest regulatory requirements while providing a means to re-license with requirements that are substantially reduced as compared to current requirements.