

EXHIBIT I

FISCAL YEAR 2009



ARKANSAS HEALTH SERVICES PERMIT
AGENCY

SCOPE

Arkansas Code Ann. 20-8-101 et seq. authorizes the Health Services Permit Agency as an independent agency under the supervision and control of the Governor. With direction from a nine (9) member Health Services Permit Commission, the Agency is responsible for implementing the State's Health Services Program that includes a Permit of Approval (POA) process.

The current POA process evolved from federal initiatives in the sixties resulting in passage of an Arkansas Certificate of Need (CON) law in 1975. Legislation in 1987 abolished the CON program and established the existing program. Arkansas Act 593 of 1987, as amended, created the Health Services Permit Commission and the Health Services Permit Agency to implement the State's long-term care planning and review program.

MISSION

The Commission/Agency mission is to ensure appropriate distribution of health care providers through the regulation of new services, protection of quality care and negotiation of competing interests so that community needs are appropriately met without unnecessary duplication and expense.

PUBLIC PURPOSE

The POA process is vital to the state to direct and implement state policy by promoting cost containment, ensuring appropriate distribution of health care providers, and preventing the unwise expenditures of the State's Medicaid dollar. Additionally, implementation of state policy can take the form of encouraging, or discouraging, the growth of certain services for which there may be less costly, or more appropriate alternatives.

COMMISSION

Commission membership is defined by the Legislature, appointed by the Governor and confirmed by the Senate. Commission members serve without pay for a maximum of two (2) four-year terms. By statute, Commissioners must be represented by a:

- member from the Arkansas Hospital Association
- member from the Arkansas Health Care Association
- member from the Arkansas Chapter, AARP
- member from the Arkansas HomeCare Assoc. of Arkansas

- member from the Arkansas Residential/Assisted Living Association
- member from the Arkansas Hospice Association
- representative of the Department of Human Services
- consumer knowledgeable in business health insurance, and a
- practicing physician.

Directives for the Commission as assigned by Act 1800 of 2001:

- evaluate the availability and adequacy of health services
- designate those locales which, due to the requirements of the population or the geography of the area, the health service needs of the population are underserved
- (may) specify within locales or areas, categories of health services which are underserved and overserved due to the composition or requirements of the population or the geography of the area
- develop policy and adopt criteria including time limitations for every review of an application to be followed by the Agency in issuing a POA
- (may) define certain underserved locales or areas or categories of services within underserved locales or areas to be exempt for specified periods of time from the POA requirement
- (may) set application fees for POA applications to be charged and collected by the Agency
- upon appeal conduct hearings on decisions by the Agency within 90 days of receipt of the Agency decision. The Commission shall render its final decision within 15 days of the close of the hearing. Failure of the Commission to take final action within these time periods shall be considered a ratification of the Agency decision and shall constitute the final decision of the Commission from which an appeal to Circuit Court may be filed.

AGENCY ADMINISTRATION

The agency has a full time staff of two (2), including the Agency Director, Deborah Frazier. The remaining full time staff includes Management Project Analyst. Both the Agency Fiscal Director and the Administrative Specialist position have become shared positions with the Developmental Disabilities Program which is housed with and administered by the Health Services permit Agency. The shared positions are an effort to improve operational and fiscal efficiency.

Directives for the Agency as mandated by Act 1800 of 2001:

- possess and exercise such duties and powers as necessary to

- implement the policy and procedures adopted by the Commission
- review all applications for POAs and approve or deny the application within 90 days from the date the application is deemed complete and submitted for review, and
- assist the Commission in the performance of its duties.

In addition to its planning function, the Agency is designated as the administering agency for The Governor's Developmental Disabilities Council (DDC). Federal Law requires that each state that receives DDC funding have a governor's delegated state agency to provide administrative support and to ensure federal compliance with the DDC Act. The DDC's goal is to increase independence, productivity and integration and inclusion of persons with developmental disabilities into all facets of community life. The 26 member Commission and full-time staff of three advocate for improvements and changes in the current delivery system, provide training and education on disability issues, provide information and referral services, fund local pilot projects and work with other state and federal agencies to accomplish the DDC goals. The DDC budget is approximately \$790,000 in federal funds and an additional \$50,000 in state general revenue (SGR). The DDC Act requires a 25% state match. The aforementioned SGR provides a portion of that match. Additional match is the result of volunteer hours and local grantee contributions that satisfy the state match requirement. All federal and match funds are budgeted to and used explicitly for DDC activities as outlined in the federal DDC Act.

Fiscal/Budget

Revenue from the Health Services Permit fees and copy fees are deposited into the State Treasury. The review fee is \$1,000 per application. The Agency charges \$0.25 a page for copying. The total deposits for FY 2009 were \$33,507.32 which includes \$32,000.00 from POA fees and \$1,507.32 from copy fees.

Arkansas Code 20-8-103 et. Seq. allows all proceeds from fees to be deposited into the State General Services Fund Account. Act 58 of 1997 allows the balance remaining at the close of each state fiscal year to be carried forward to the next state fiscal year to be used exclusively for the maintenance and operation of the Agency. The Agency's carry forward for 2008 was \$ 330,434.

FY 2009	844 – HSPA
APPROVED BUDGET	\$406,606
GENERAL REVENUE	\$244,335
POA & COPY FEES	\$33,507.32
TOTAL REVENUE	\$277,842.32
TOTAL EXPENSES	\$308,255.91

PERMIT OF APPROVAL REVIEW PROCESS

Fiscal Year 2009 reviewable projects included Nursing Homes, Assisted Living Facilities (ALF), Hospice Agencies and Facilities, and Home Health Services. The POA process encompasses the addition of beds, cost overruns, movement of existing beds, and movement of site locations for POAs. Intermediate Care Facilities for the Mentally Retarded (ICF/MR), Residential Care Facilities (RCF), and Psychiatric Residential Care Facilities (PRTF) remain under moratorium since 1987, 2005, and 2008, respectively.

Potential applicants are urged to schedule a pre-application conference with staff for assistance in understanding the POA process, including advising of the need for the proposed service, guidance in developing an application, and the timetable for review. After an application is accepted for review, the 90-day review cycle begins. There are four (4) 90-day review cycles per year. See Attachment A for 2009 Review Cycle dates.

Applications are reviewed in accordance with the Commission's adopted criteria and standards, along with population projections and up-to-date utilization reports. Detailed objective findings are developed by staff addressing four statutory criteria: need, staffing, economic feasibility, and cost containment. Agency findings include the criteria for the Agency decision. Agency decisions are final after 30 days, unless the Agency receives a request for an appeal from an applicant or interested party who has filed an objection in the first 30 days of the review cycle. These interested parties or unsuccessful applicants may then appeal to the commission. When the Commission upholds the Agency decision, unsuccessful applicants may seek judicial review in an appropriate court. If no appeal request is received, the Agency issues the POA and the applicant may proceed with implementation and licensing of their project. A POA may be transferred to another party with approval of the Commission. Once implemented (licensed), a POA ceases to exist.

Agency rules, methodologies, applications under review and other information may be found on the Agency's web site: www.arhspa.org.

MEETINGS

The Commission meets at least quarterly; however, meetings may occur more frequently to respond to appeals and requests from the public. The Commission met four (4) times during FY 2009. Notice is given to the public at the time POA applications are received and at the time a decision is made by the Agency or Commission. Public hearings are held as recourse for affected parties. The Commission held one (1) hearing during FY 2009. The Agency

decision was upheld in this one (1) case.

PROJECTS SUBJECT TO POA REVIEW

- Assisted Living Facilities (Act 1230 of 2001)
- Home Health Agencies (Act 956 of 1987)
- Hospice Agencies and Hospice Facilities (Act 396 of 1997)
- Intermediate Care Facilities for the Mentally Retarded (Act 593 of 1987) (Moratorium since 1987)
- Nursing Homes (Act 593 of 1987)
- Psychiatric Residential Treatment Facilities (Act 593 of 1987) (Moratorium since 2008)
- Residential Care Facilities (Act 593 of 1987) (Moratorium since 2005)

The above referenced services require a permit for new or expanded services and for cost overruns on approved, new, or renovated facilities.

PROJECTS REQUIRING APPROVAL BY THE COMMISSION

- Movement of beds or site location change
- Transfers of Permits of Approval. legal title or right of ownership
- Expedited Review (No additional beds may be approved by the Commission under expedited review). The expedited review process may be utilized if a capital expenditure is required to:
 - eliminate or prevent imminent safety hazards
 - comply with State licensure standards
 - comply with accreditation or certification standards which must be met to receive reimbursement under Title XVIII of the Social Security Act or payments under a State plan for medical assistance approved under Title XIX of that Act
 - eliminate emergency circumstances that pose an imminent threat to public health, or
 - increase the cost of an approved project in order to replace remodeling with new construction.

POA APPLICATION VOLUME

In FY 2008, thirty-four (34) applications were approved, four (4) were denied and eight (8) were withdrawn or returned. Agency decisions resulted in the approval of \$ 164,848,068 in capital projects.

In FY 2009, twenty-eight (28) applications were approved, five (5) were denied and five (5) were withdrawn or returned. Agency decisions resulted in the approval of \$ 87,176,090.45 in capital projects.

Table 1. FY 2008 Applications

Type of Project	Number of Apps	Approved Capital Expenditures	Approved	Denied	Withdrawn/ Returned
RCFs	0	0	0	0	0
Nursing Homes	12	\$62,087,998	9	1	2
PRTFs	0	0	0	0	0
Home Health	3	\$20,148	1	2	0
Assisted Living	26	\$99,935,954	20	0	6
Hospice Agencies	3	0	2	1	0
Hospice Facility	2	\$2,803,968	2	0	0
Totals	46	\$164,848,068	34	4	8

Table 2. FY 2009 Applications

Type of Project	Number of Apps	Approved Capital Expenditures	Approved	Denied	Withdrawn/ Returned
Nursing Homes	14	\$50,353,956.45	11	0	3
PRTFs	0	0	0	0	0
Home Health	2	\$2,500	2	0	0
Assisted Living	11	\$32,921,704	8	1	2
Hospice Agencies	7	\$509,800	3	4	0
Hospice Facility	4	\$3,388,130	4	0	0
Totals	38	\$87,176,090.45	28	5	5

Table 3 illustrates the decrease in applications from FY 2005-FY 2009. For the second straight year, POA applications have continued to decline. This is due in large part to the current economic situation. The largest hit area seems to be Assisted Living Facilities. While there is still a large need in many of the counties in the state, applicants are experiencing difficulty acquiring solid financing from financial institutions.

Table 3. Total Applications FY 2005 – FY 2009

		2005	2006	2007	2008	2009
Nursing Home	Total	15	28	24	12	14
	Population/CO	2	1	5	1	2
	Utilization	3	9	5	2	1
	Replacement	7	14	7	6	10
	Other	3	4	7	3	1
RCF	Moratorium 07/05	2	1	0	0	0
Assisted Living		14	19	23	26	11
Home Health		3	1	2	3	2
Hospice		37	15	16	3	7
Hospice Facility		3	4	3	2	4
PRTF	Moratorium 02/08	5	4	13	0	0
Total		79	72	81	46	38

SUMMARY OF CHANGES FOR FY 2009

Several changes were made to the Rules and Regulations during FY 2009. Among the changes were:

- Nursing Home Renovation Threshold Increase**
 This legislative change (Act 649) of 2009 amended the threshold for renovations to nursing homes. Prior to the Act, any renovations to a Nursing Home requiring more than \$500,000 require the applicant to apply for a POA. Act 649 increased the amount to \$1,000,000.
- POA Application Increase**
 This amendment to the Permit of Approval increased the Permit of Approval Application fee by \$500, for a total of \$1,500, per application.

The Agency's fees had not been increased since 2001 when it was increased from \$500 to \$1,000. This increase was requested and needed to reflect the increased cost of doing business. At the time of this recent change, Arkansas had one of the lowest application fees of all Certificate of Need states. See attached fee schedule for other Certificate of Need states.

The Agency also reduced the number of copies that an applicant must submit with the original copy of the application from three (3) copies to one (1) copy.

State Certificate of Need Programs Certificate of Need Filing/Review Fees, 2008

State	Fees
Alabama	1% project cost (max 18,611)
Alaska	\$2,500 minimum; 0.1% of total up to \$75,000
Arkansas	1000 per application
Connecticut	\$1,000 + 0.05% total expenditure
Delaware	<.5 m = \$100, .5-1.0m = \$750, 1.0-5.0m = \$7,500, >\$10m = \$10,000
D.C.	3% capital expenditure; \$5,000 min; \$300,000 max
Florida	\$10,000 + 0.015 of project cost, max of \$50,000
Georgia	<1m = \$1,000, >1m = .1% of cost w/ max \$50,000
Hawaii	\$200 + .1% upto 1m costs or \$200 + .05% above \$1m
Illinois	0.2% of Capitalized cost, min of \$700 and Max of \$100,000
Iowa	0.3% of Capital Expenditure, min of \$600 and max of \$21,000
Kentucky	0.5% of capital expenditure. \$1,000 min; \$25,000 max
Louisiana	\$10 per bed for Medicaid Participation
Maine	\$1,000 per \$1M, Min \$5K, Max \$250K
Maryland	no fees, but annual facility fee based on revenue and admissions
Massachusetts	0.1% of capital cost, min of \$250
Michigan	\$1500 for <500K, \$5,500 for 500K - 4M, \$8,500 for > 4M
Mississippi	0.5% of project cost, min \$500, max \$25,000
Missouri	0.1% of project cost, Min \$1,000
Montana	0.3% of project cost, \$500 min
Nebraska	\$1,000
Nevada	\$9,500
New Hampshire	0.25% of project cost, min \$500, Max \$12,000
New Jersey	\$7,500 + .25% for projects > 1M, min \$7,500
New York	\$1,250 + .45% of project costs
North Carolina	\$5,000 min, Capital Expenditures \$5,000 + 0.3% of costs over \$1M, max of \$50,500
Ohio	\$3,000 or 0.9% of project cost, max of \$20K, max of \$3K for non-capital
Oklahoma	Psychiatric: 0.75% of project cost, NH/LTC = 1% of project costs, min \$1K replacement: \$1,000
Oregon	2%, min \$10K, max \$25K, expedited/parital: 1% min \$5K and \$15K max
Rhode Island	\$500 + .25% of total capital
South Carolina	\$500, 0.005 of project cost < \$1.4M; \$7,500 for >1.4M
Tennessee	0.225% of project cost; min \$3,500 and max \$45,000
Vermont	0.125% of project cost; min \$250 and max \$20K
Virginia	1% of project cost; \$20K max and \$1K min
Washington	HH: \$16,155; NH: \$30,293; HoSF: \$8,432; Hos: \$14K
West Virginia	Min: \$25, 0.1% of project cost
Wisconsin	0.37% of project cost; min \$1,850 and max \$37,000

2009 Review Cycle

Review Cycles: **Italicized comments taken from Rule Book, Section V*

Applications Due <i>(Dates are taken from the Rule Book)</i>	Determination of Completeness & Additional Information Gathered <i>(Determine completeness within 30 days of the scheduled submission date)</i> <i>Agency Internal Review Period</i>	Public Notice for applications under review <i>(Opponents have 30 days from date of public notice to submit comments)</i> <i>Public Comment Period</i>	Internal Review Period & Review of Public Comments	Agency Decisions Sent by Certified Mail <i>(Agency must approve or deny the application within 90 days of date that the application is deemed complete)</i>	Appeal Period <i>(Applicants or opponents seeking appeals shall file for a hearing within 30 days of receipt of the agency decision)</i>	Commission Meetings for 2009 <i>(Dates are approximate and subject to change)</i>
November 1, 2008	Nov 2-Dec. 1	Dec.3-Jan 3, 2009	Jan.4- Jan. 18	Jan. 23	Jan. 25- Feb. 25	March 20
Feb. 1	Feb. 4-March 4	March 5- April 4	April 7- April 21	April 24	April 28- May 29	June 12
May 1	May 1- May 30	June 2- July 3	July 7-20	July 24	July 28- Aug. 28	Sept. 10
August 1	Aug.1- Sept. 1	Sept. 2- Oct 3	Oct. 6-Oct. 20	Oct. 23	Oct. 25- November 26	Dec. 11

**HEALTH SERVICES PERMIT COMMISSION
2009**

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