

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

DEPARTMENT/AGENCY Arkansas Department of Health
DIVISION Health Facility Services
DIVISION DIRECTOR Becky Bennett, Section Chief
CONTACT PERSON Connie Melton, Branch Chief
ADDRESS Freeway Medical Tower, 5800 W. 10th St., Ste. 400, Little Rock, AR 72204
PHONE NO. 501.280.4588 **FAX NO.** 501.661.2165 **E-MAIL** connie.melton@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Robert Brech, JD, General Counsel
PRESENTER E-MAIL robert.brech@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**

1. What is the short title of this rule? Rules and Regulations for Abortion Facilities in Arkansas

2. What is the subject of the proposed rule? licensing standards for abortion facilities in Arkansas

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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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. § 20-9-301 et seq.

7. What is the purpose of this proposed rule? Why is it necessary? The proposal incorporates provisions from the following Acts of 2015 regular session: 139; 535; 577; 887; 934; and 1086; and the surviving provisions of Act 301 of 2013. More specifically, the proposal adds and updates definitions from the 2015 Acts; specifies written and other requirements for informed consent and certification requirements for medical emergency exceptions to informed consent; specifies written notarized requirements for consent for minors and women under guardianship; adds policies and procedures requirements for proper storage and disposition of human and fetal tissue, patient follow-up appointments, and patient receipt of USFDA drug labels for abortion-inducing drugs; adds abdominal ultrasound and fetal heartbeat disclosure requirements; adds reporting requirements for child maltreatment/abuse; specifies abortion-reporting requirements; adds adverse event reporting for certain abortion-inducing drugs; adds 48 hour pre-procedure counselling and information requirement; adds requirement that administration of abortion-inducing drugs occurs in same room and physical presence of prescribing physician and requires determination of gestational age and intrauterine location of pregnancy; and introduces signage posting requirements; and comprehensive measures for infection prevention and control; in addition, the proposal adds forms for informed consent; fetal pain; and unemancipated minors and women under legal guardianship or custodianship for incompetency.

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).
<http://www.healthy.arkansas.gov/aboutADH/Pages/RulesRegulationsProposed.aspx>

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: July 26, 2016

Time: 10:00 am

Room 801, Freeway Medical Tower,
Place: 5800 W. 10th St., Little Rock AR

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

July 26, 2016 at 12:00 noon

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

December 1, 2016

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

If yes, please
explain.

The subject matter is highly controversial; therefore, the revisions are likely to generate controversy.

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.

unknown

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health
DIVISION Health Facility Services
PERSON COMPLETING THIS STATEMENT Connie Melton, MBA, FACHE, Branch Chief
TELEPHONE NO. 501.661.2201 **FAX NO.** 501.661.2165 **EMAIL:** connie.melton@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 and Regulations for Abortion Facilities 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 _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total none

Total none

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

\$ 0 to 1,000

\$ same

Cost per facility depends on present equipment and supplies.

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

No ascertainable additional cost.

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.