

ARKANSAS STATE BOARD OF HEALTH

CENTER FOR HEALTH ADVANCEMENT

**RULES AND REGULATIONS
PERTAINING TO
DENTAL HYGIENISTS SERVING UNDERSERVED AREAS**

**Promulgated Under the Authority of
Arkansas Code Annotated § 17-82-706**

Effective June 1, 2014

**By the Arkansas State Board of Health
Arkansas Department of Health
Little Rock, Arkansas**

RULES AND REGULATIONS PERTAINING TO DENTAL HYGIENISTS SERVING UNDERSERVED AREAS

SECTION I. AUTHORITY

The following Rules and Regulations pertaining to Dental Hygienists Serving Underserved Areas are duly adopted and promulgated by the Arkansas Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including Ark. Code Ann. § 17-82-706.

SECTION II. PURPOSE

To protect the health of the citizens of Arkansas by promulgating rules providing limited governance of the services provided by a dental hygienist working under a collaborative care permit program with a licensed dentist.

SECTION III. DEFINITIONS

For the purposes of these Rules, the following words and phrases when used herein shall be construed as follows:

(1) "Collaborative agreement" means a written agreement between a dentist licensed by the Arkansas State Board of Dental Examiners and a dental hygienist licensed by the Arkansas State Board of Dental Examiners providing that the dental hygienist may provide prophylaxis, fluoride treatments, sealants, dental hygiene instruction, assessment of a patient's need for further treatment by a dentist and if delegated by the consulting dentist other services provided by law to children, senior citizens and persons with developmental disabilities in a public setting without the supervision and presence of the dentist and without a prior examination of the persons by the dentist

(2) "Collaborative dental hygienist" means a dental hygienist who holds a Collaborative Care Permit I, a Collaborative Care Permit II, or both from the Arkansas State Board of Dental Examiners and who has entered into a collaborative agreement with no more than one (1) consulting dentist regarding provision of services under this subchapter

(3) "Consulting dentist" means a dentist who holds a Collaborative Dental Care Permit from the Arkansas State Board of Dental Examiners and:

(A) If engaged in the private practice of dentistry, has entered into a collaborative agreement with no more than three (3) collaborative dental hygienists regarding the provision of services under this subchapter; or

(B) Is employed by the Arkansas Department of Health

(4) "Public settings" means:

- (A) Adult long-term care facilities;
- (B) Charitable health clinics that provide free or reduced-fee services to low-income patients;
- (C) Community health centers; and
- (D) County incarceration facilities;
- (E) Facilities that primarily serve developmentally disabled persons;
- (F) Head Start programs;
- (G) Homes of Homebound patients who qualify for in-home medical assistance;
- (H) Hospital long-term care units;
- (I) Local health units;
- (J) Schools in rural counties
- (K) State correctional institutions

SECTION IV. SPECIFIC REQUIREMENTS

1. The Office of Oral Health, Arkansas Department of Health, shall develop and maintain a list of communities and/or rural areas prioritized as to need for dental services and will endeavor to direct collaborative services to these communities and rural areas. Prioritization will be based upon a patient’s ability to access care and limited to public settings. These include:

- (A) Adult Long-Term Care Facilities;
- (B) Charitable clinics that provide free or reduced-fee services to low income patients;
- (C) Community Health Centers;
- (D) County incarceration facilities;
- (E) Facilities that primarily serve developmentally disabled patients;
- (F) Head Start Programs;
- (G) Homes of Homebound patients who qualify for in-home medical assistance;
- (H) Hospital long-term care units;
- (I) Local Health Units;
- (J) State Correctional Institutions; or
- (K) Schools shall be prioritized utilizing the following criteria:
 - 1. Low full-time dentist to population ratio; and
 - 2. Percentage of students participating in free and reduced lunches of the school or school district.
 - a. No school in a tier may be eligible for services until all schools in higher tiers have received services, declined services, or otherwise are unavailable or unwilling to participate in services.
 - b. A school that fails to respond to a reasonable effort to contact it regarding the availability of services may be deemed to be unwilling to participate in services.
 - c. Tiers:
 - 1. Tier I shall consist of those schools where 90% or more of its students receive free and reduced lunches;
 - 2. Tier II shall consist of those schools where 75% or more of its students receive free and reduced lunches;

3. Tier III shall consist of those schools where 70% or more of its students receive free and reduced lunches;
4. Tier IV shall consist of those schools where 60% or more of its students receive free and reduced lunches;
5. Tier V shall consist of those schools where 50% or more of its students receive free and reduced lunches; and
6. Tier VI shall consist of those schools where less than 50% if its students receive free and reduced lunches.

3. To further the intent of these rules and after good cause shown, the Director of the Department of Health may waive the requirements of this subsection.

2. Provision shall be made for assessment by the hygienist and referral to the collaborative dentist for recall examinations on a yearly basis or more frequently as needed.
3. Patients will be encouraged to establish a dental home
4. A consulting dentist in a collaborative care program with a dental hygienist must consult the Office of Oral Health, Arkansas Department of Health, for permission to practice collaborative care in prioritized areas. Permission must be confirmed annually.
5. The Office of Oral Health will keep appropriate records.

SECTION V. SEVERABILITY

If any provision of these Rules or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications of these Rules and Regulations which can give effect without the invalid provisions or applications, and to this end, the provisions hereto are declared severable.

SECTION VI. REPEAL

All regulations and parts of regulations in conflict herewith are hereby repealed. (Specify if repealing a specific existing rule or part thereof.)

CERTIFICATION

This will certify that the foregoing Rules and Regulations Pertaining to Dental Hygienists Serving Underserved Areas were adopted by the Arkansas Board of Health at a regular session of the Board held in Little Rock, Arkansas, on the 24th day of April, 2014.



Nathaniel Smith, MD, MPH
Secretary, Arkansas State Board of Health

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health
DIVISION Center for Health Advancement
PERSON COMPLETING THIS STATEMENT Robert Brech
TELEPHONE NO. (501) 661-2297 **FAX NO.** (501) 280-4583 **EMAIL:** robert.brech@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 Pertaining to Dental Hygienist Serving Underserved Areas

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

Next Fiscal Year

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

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) _____

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

Total _____

Total _____

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 _____

\$ 0 _____

The rules are not anticipated to result in any additional cost to any entity. These rules merely establish a method of prioritizing underserved areas so that dental hygienists wishing to serve in underserved areas pursuant to A.C.A. 17-82-706 know which areas to serve in.

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 _____

See above.

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.