

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

DEPARTMENT/AGENCY Arkansas Insurance Department
DIVISION Legal Division
DIVISION DIRECTOR Suzanne Tipton, Deputy Commissioner & General Counsel
CONTACT PERSON Booth Rand, Managing Attorney
ADDRESS 1200 West Third Street, Little Rock, Arkansas 72201-1904
PHONE NO. 501-371-2820 **FAX NO.** 501-371-2618 **E-MAIL** booth.rand@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Booth Rand, Managing Attorney
PRESENTER E-MAIL booth.rand@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? RULE 117: PROVIDER-LED ORGANIZATION LICENSURE STANDARDS

2. What is the subject of the proposed rule? The proposed Rule adopts in permanent form AID Emergency Rule 117 issued on May 22, 2017. This proposed final Rule implements on a permanent basis Act 775 of 2017 of the 91st Arkansas General Assembly also known as the "Medicaid Provider-Led Organized Care Act" (hereafter, the "Organized Care Act")."

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? N/A

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. The proposed Rule proposes to adopt AID Emergency Rule 117, "Provider-Led Licensure Standards," issued on May 22, 2017 before its expiration in 120 days (September 19, 2017). The proposed permanent Rule amended the earlier issued Emergency Rule of the same number and subject, to remove emergency language and to change effective date to September 18, 2017. Act 775 of 2017 requires the Arkansas Insurance Commissioner to adopt a rule implementing the Organized Care Act before June 1, 2017 and to begin issuing licenses to entities participating in the program on and after July 1, 2017. AID issued an implementational rule on an emergency basis on 5-22-17. AID now permanently proposes to adopt the Emergency Rule requirements which provide application requirements of the RBPO participating in the program, addresses standards for imposition of additional amounts of funds above reserve requirements to adjust to risk in Ark. Code Ann. § 20-77-2706 (f)(4)(B), establishes financial reporting requirements of the RBPO, imposes a reasonable fee for the regulation and licensing of the RBPO by rule under § 23-61-117(b)(2), and, finally, prescribes the reporting, forms, and requirements related to the payment of the quarterly tax under Ark. Code Ann. 23-61-117(b)(3)."

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. This replaces the Emergency Rule of the same number and title. See attached markup of changes in the permanent rule with the Emergency Rule.

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. This rule is issued pursuant to Ark. Code Ann. § 23-61-117(b) which authorizes the Arkansas Insurance Commissioner ("Commissioner") to issue rules to regulate the licensure and financial solvency of risk-based provider organizations under Act 775 of 2017

7. What is the purpose of this proposed rule? Why is it necessary? See our answer to your Question Five (5) above.

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.insurance.arkansas.gov/prop-rules.htm>

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

If yes, please complete the following:

Date: August 10, 2017.

Time: 2:30 PM.

Arkansas Insurance Department, 1200
West Third Street, Little Rock,

Place: Arkansas

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

The public comment period expires on August 10, 2017.

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

September 18, 2017.

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

We had opposition in written and oral comments to one part or section of the Rule by one organization related to AID's risk-based capital requirements and 6 million dollar licensure requirement. See public comments summary and electronic hearing transcript.

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.

The Arkansas Provider Coalition and ForeverCare made comments. Please see attached public comments summary as well as hearing transcript.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Insurance Department
DIVISION Legal Division
PERSON COMPLETING THIS STATEMENT Booth Rand, Managing Attorney
TELEPHONE NO. 501-519-0484 **FAX NO.** 501-371-2618 **EMAIL:** booth.rand@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 Rule 117: Provider-Led Organization Licensure Standards

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;
See attachment on financial impact

(b) The reason for adoption of the more costly rule;
See attachment on financial impact

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

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

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 N/A
Federal Funds N/A
Cash Funds N/A
Special Revenue N/A
Other (Identify) N/A

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 N/A
 Federal Funds N/A
 Cash Funds N/A
 Special Revenue N/A
 Other (Identify) N/A
 Total N/A

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

\$ Unknown

\$ _____

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

\$ None

\$ _____

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.