

# ARKANSAS REGISTER

## Transmittal Sheet

\* Use only for **FINAL** and **EMERGENCY RULES**



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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Board of Health

Department Department of Health/Immunization Section

Contact Hilda Douglas E-mail Hilda.Douglas@arkansas.gov Phone (501) 661-2493

Statutory Authority for Promulgating Rules Ark. Code Ann. § 20-15-1201 - 1203

Rule Title: Rules and Regulations Pertaining to Immunization Reporting

### Intended Effective Date

(Check One)

Emergency (ACA 25-15-204)

30 Days After Filing (ACA 25-15-204)

Other August 1, 2012  
(Must be more than 30 days after filing date.)

### Date

Legal Notice Published 3/15/2012

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Reviewed by Legislative Council 6/13/2012

Adopted by State Agency 1/26/2012

Electronic Copy of Rule submitted under ACA 25-15-218 by:

Robert Brech robert.brech@arkansas.gov 06/29/2012

Contact Person

E-mail Address

Date

## CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted

In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. (ACA 25-15-201 et. seq.)

Signature

501-661-2252 rick.hogan@arkansas.gov

Phone Number

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General Counsel

Title

6/29/2012

Date

**RULES AND REGULATIONS  
PERTAINING TO  
IMMUNIZATION REPORTING**

**Promulgated Under the Authority of  
Ark. Code Ann. §§ 20-15-1201 - 1203**

**ARKANSAS STATE BOARD OF HEALTH**

**Effective  
August 1, 2012**

**Arkansas Department of Health  
Little Rock, Arkansas  
(Paul Halverson, DrPH, FACHE, Director)**

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**RULES AND REGULATIONS  
PERTAINING TO IMMUNIZATION REPORTING**

**SECTION I. AUTHORITY**

The following Rules and Regulations Pertaining to Immunization Registration 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, without limitation, Ark. Code Ann. §§ 20-15-1201 – 1203.

**SECTION II. PURPOSE**

To protect the health of the citizens of Arkansas, these rules and regulations are necessary to establish and maintain a statewide immunization registry and provide for the collection of data, enrollment of and reporting by Providers, and the release of immunization information. The immunization registry will serve as a repository of immunization information that may be available to an individual requesting a copy of his/her immunization record, parents or guardians of a child, Providers who report the immunization status of individuals in their care, and such other persons or organizations designated by rule or regulation of the Board.

**SECTION III. DEFINITIONS**

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

- A. “Board” means the Arkansas Board of Health;
- B. “Department” means the Arkansas Department of Health;
- C. “Section” means the Communicable Disease/Immunization Section of the Arkansas Department of Health;
- D. “Provider” means any health care professional who has direct or supervisory responsibility for the delivery of immunizations. NOTE: A school nurse or other

health official who has direct or supervisory responsibility for the delivery of immunizations falls within the definition of "health care professional"; and

- E. "Other persons or organizations" means any non-Providers who have direct or supervisory responsibility of an individual whose immunization history could have a direct impact upon their admission policy as outlined by state requirements. A child care facility licensed by the state of Arkansas falls within the definition of "Other persons or organizations".

**SECTION IV. GENERAL REQUIREMENTS**

- A. A statewide immunization registry shall be established and include data as specified by the Department.

- 1. All persons under 22 years of age receiving immunizations shall be enrolled into the registry. (As of January 1993, all newborns to Arkansas residents have been automatically enrolled.)
- 2. Persons age 22 years or older may be enrolled into the registry upon granting consent to the Provider.
- 3. The minimum data elements to be furnished by the Provider in an immunization record in the immunization registry are:

Clinic Name

Clinic Code

Name

Date of Birth

Address

Mother's Name (Maiden name preferred)

Gender

Race

Shot Type

Date Immunization Given

Provider Number

Lot Number

Insurance Status

All previous immunizations if not given by the reporting Provider

Vaccine Manufacturer

- B. All Providers who provide immunizations to persons under 22 years of age shall register with the Department. Providers who provide immunizations to persons age 22 years or older may register with the Department.

- 1. Enrollment:

- a. The Section shall maintain a current listing of Providers.
  - b. The Section shall respond to Providers by assigning a clinic code and supplying the Provider agreement (See Section IV.B.2.) for signature by a physician or administrator.
  - c. The Section's response shall also include instructions for the Provider to submit reports of doses given and make requests for immunization records.
2. Department/Provider Agreement:
- A signed agreement shall be kept on file by the Section and the Provider. It shall specify the purpose for the information and outline required security/confidentiality measures. Statements on disclosure of information specifying what and how information is to be released shall be included. Providers signing the agreement will specifically certify that information will be accessed only on persons for whom they have medical responsibility.
- C. All Providers shall report to the Department the administration of any childhood immunization to any person under twenty-two years of age.
1. A Department approved format for the reporting of data shall be used by all Providers to report immunizations given.
  2. Providers shall submit information on immunizations provided within two weeks of administration.
  3. When reporting immunizations, previous unreported doses shall also be reported to provide a complete immunization history to the registry.
  4. Failure to report shall result in the Department contacting the Provider to encourage compliance. Continued non-compliance may result in sanctions not to exceed \$25.00 and/or removal from the Vaccine For Children (VFC) program.
- D. Providers may report immunizations given to individuals age 22 years or older to the registry after receiving consent from the individual.
1. A Department approved format for the reporting of data shall be used by all Providers to report immunizations given.
  2. Providers should submit information on immunizations provided within two weeks of administration.
  3. When reporting immunizations, previous unreported doses, if available, should also be reported to provide a complete immunization history to the registry.
- E. The Department shall upon request make information regarding the immunization status of individuals in the registry available to an individual requesting a copy of his/her immunization record, the parents or legal guardians of the child, providers who report on the immunization status of individuals in their care and such other persons or organizations authorized by the Board. The Section will evaluate the written documentation requesting access to information from the registry. If the request is authorized within these regulations and criteria approved by the Board, the Section will grant access to the information.

1. Providers
  - a. When written requests are used, they shall be made on letterhead and include the Provider's clinic code (if applicable), patient name, and date of birth.
  - b. Phone requests shall be accepted, but only if the clinic code (if applicable) is provided along with patient name and date of birth.
  - c. Faxed requests shall be submitted on letterhead and include the Provider's clinic code (if applicable), patient name and date of birth. The information shall be faxed or phoned to the numbers on file only.
  - d. Electronic requests shall be accepted if they include the Provider's clinic code (if applicable), patient name and date of birth.

2. Parents/Legal Guardians of Children/Self

Parents/Legal Guardians of children/Self shall receive immunization information from the registry without providing consent for the release of information. Requests may be made in writing, in person, electronically, or by fax with requested qualifying ~~the~~ information.

3. Other Persons or Organizations

- a. If accompanied by a HIPAA compliant authorization to disclose on AS Form 4000 signed by a parent or guardian, written requests shall be granted. The request shall include the patient name and date of birth. Information shall include the requesting party's name, mailing address, and phone number.
- b. Phone requests shall not be granted.
- c. Faxed and electronic requests shall be accompanied by a signed and dated authorization to disclose and include the patient name and date of birth. Information shall include the requesting party's name, email or mailing address, phone number, and fax number.
- d. Any licensed daycare facility responsible for ensuring compliance with immunization requirements may have read-only access after the submission of a signed user agreement.

4. Granting access to the registry does not commit the Department to any expense.

- F. Confidentiality of medical information shall be observed. The patient's name, date of birth, and immunization information shall be the only information released from the registry. No further identifying or contact information shall be disclosed.

## **SECTION V. PENALTIES**

- A. After an opportunity for a fair hearing conducted under the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq., a provider found to have administered an immunization to a person under 22 years of age without fulfilling the requirements of Section IV-B 1, 2 and Section IV-C 1-4 shall be fined twenty-five dollars (\$25). (See Section IV-C 4.)
- B. Any wrongful disclosure of individually identifiable health information may be considered a violation of HIPAA (42 USC 1320d-6) and may result in fines

administered by the Office for Civil Rights of the U.S. Department of Health and Human Services of up to \$250,000, or imprisonment of not more than 10 years, or both.

- C. Wrongful disclosures may also result in state criminal sanctions of fines up to \$500.00 or imprisonment not exceeding one (1) month, or both.
- D. After an opportunity for a fair hearing conducted under the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq., civil penalties may be administered by the State Board of Health of fines up to \$1,000 per violation.

**SECTION VI. SEVERABILITY**

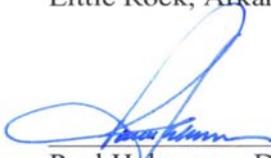
If any provision of these rules and regulations, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these rules and regulations which can give effect without the invalid provisions or applications, and to this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

**SECTION VII. REPEAL**

All regulations in conflict herewith are hereby repealed.

**CERTIFICATION**

This will certify that the foregoing Rules and Regulations for immunization reporting were adopted by the Arkansas Board of Health at a regular session of the Board held in Little Rock, Arkansas on the 26<sup>th</sup> day of January, 2012.



Paul Halverson, DrPH, FACHE, Secretary  
Arkansas State Board of Health

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Health  
**DIVISION** Immunization Section  
**PERSON COMPLETING THIS STATEMENT** Hilda Douglas  
**TELEPHONE NO.** 501-661-2493 **FAX NO.** 501-661-2300 **EMAIL:** hilda.douglas@arkansas.gov

To comply with Act 1104 of 1995, 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 Immunization Reporting

1. Does this proposed, amended, or repealed rule have a financial impact?      Yes       No
2. Does this proposed, amended, or repealed rule affect small businesses?      Yes       No   
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

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3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

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4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

<b><u>Current Fiscal Year</u></b>	<b><u>Next Fiscal Year</u></b>
General Revenue <u>NA</u>	General Revenue <u>NA</u>
Federal Funds _____	Federal Funds _____
Cash Funds _____	Cash Funds _____
Special Revenue _____	Special Revenue _____
Other (Identify) _____	Other (Identify) _____
Total _____	Total _____

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

<b><u>Current Fiscal Year</u></b>	<b><u>Next Fiscal Year</u></b>
\$ <u>NA</u>	\$ <u>N/A</u>

The Act and regulations permit reporting of immunizations administered to adults, but does not require reporting. Reporting will be through a web-based system currently used for children.

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6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

<b><u>Current Fiscal Year</u></b>	<b><u>Next Fiscal Year</u></b>
\$ <u>NA</u>	\$ <u>NA</u>

The electronic reporting system exists for children. Allowing adult reporting will be a minimal cost.