

The Arkansas Register



Volume XXIX, Number 8

February 2006

TABLE OF CONTENTS

ATTORNEY GENERAL

Opinions 4

RULES AND REGULATIONS10

INSURANCE DEPARTMENT

Orders 15

LEGISLATIVE AUDIT

Orders 16

Charlie Daniels
Secretary of State
State Capitol, Room 026
Little Rock, AR 72201-1094

Editor **Jon Davidson**

Published by *Secretary of State*
Charlie Daniels

The *Arkansas Register* is an official publication of the State of Arkansas. It contains administrative rules and regulations adopted by state agencies, boards and commissions pursuant to Act 434 of 1967, as amended. The *Arkansas Register* also includes Attorney General opinions, notice of legislative audit reports and insurance orders. The subscription rate is \$40 per year or \$3.50 a copy, distributed monthly, postpaid within the United States.

THE ARKANSAS REGISTER

DISCLAIMER

The Secretary of State website, www.sos.arkansas.gov, contains copies of rules filed by Arkansas state agencies, boards and commissions with the *Arkansas Register* in an “acceptable electronic format” as per Act 1648 of 2001. The rules contained therein are not to be considered “official” copies of agency rules. The official copies remain the paper copies housed in the *Arkansas Register* division of the Secretary of State’s office. While the rule texts are not the “official” copies every attempt has been made to ensure their accuracy and reliability. However, the Secretary of State’s office makes no warranties or guarantees regarding the content of the copies presented on its website.

ACCESS TO RULES

Electronic versions of agency rule filings are available from the Secretary of State website. The rules may be accessed by clicking on the title of the rule listed in **BLUE**. Most of the rules are available in an Adobe PDF format, however, some rules may link you to a specific website for the particular agency. Rule titles followed by asterisks (***) are not available in an electronic form. To receive a hard copy of these types of rules or any other rule you may either contact the agency contact person or the office of the *Arkansas Register*. Copies of rules obtained from the office of the Register are subject to a .25 cent per page copy charge. Inquiries may be directed to the *Arkansas Register* office at the contact points listed below.

Secretary of States’ office
Arkansas Register
026 State Capitol
Little Rock, AR 72201
(501) 682-3527
register@sos.arkansas.gov

ATTORNEY GENERAL OPINIONS

Opinion No. 2006-023

Cossey, Marvin

RE: Request for certification of the popular name and ballot title of a proposed constitutional amendment requiring all state and local tax increases and new taxes to be approved by the electorate, and for other purposes. **RESPONSE:** Popular name and ballot title rejected due to ambiguities in the text of the measure.

Opinion No. 2006-026

Gibson, Sam
Benton City Attorney

RE: Is the decision of the custodian of records to withhold disclosure of documentation regarding the dismissal of a former Benton Police officer, on the ground that no compelling public interest exists, consistent with provisions of the Freedom of Information Act (FOIA)? **RESPONSE:** Although you have enclosed the document for my review, I do not have enough factual information to determine whether a compelling public interest in disclosure exists in this instance. See full opinion for analysis.

Opinion No. 2005-229

Davenport, Monty
State Representative

RE: Who pays for the representation of a criminal defendant on a Rule 37 appeal when the public defender's office does not provide representation of the defendant, the county or the state? **RESPONSE:** Assuming that the attorney is not privately retained by the Rule 37 petitioner, the state through the Public Defender Commission ("PDC") is authorized to pay for the post-conviction proceedings in a capital case involving a sentence of death under A.C.A. 16-87-212(c) and 16-91-202(f). There is no parallel authorization for a noncapital case. The Arkansas Supreme Court has held that the PDC cannot be ordered to pay attorney's fees for appointed counsel

in a noncapital Rule 37 proceeding. Public Defender Comm. v. Greene County Cir. Court, 343 Ark. 49, 32 S.W.3d 470 (2000). The applicable statute, A.C.A. 16-87-302, delineating the county's financial obligations with respect to the defense of indigents does not authorize the payment of any attorney's fees. In Greene County, supra, the Arkansas Supreme Court noted that, in a similar situation, the State Claims Commission maybe the appropriate recourse.

Opinion No. 2005-248

Maloch, Bruce
State Representative

RE: Does a county judge have authority to use county equipment and/or county property to install a culvert, put gravel on a parking lot, or perform similar activities on school property without receiving compensation for the value of the services or products used? Q2) Can these services be performed by the county if compensation is paid for the value of the services rendered? **RESPONSE:** In my opinion, with respect to your first question, the donation of county goods and services to a local school district may be legal but will depend factually upon whether such action serves a public purpose and, to the extent that the county "road tax" revenues are implicated, whether the activity complies with Amendment 61 to the Arkansas Constitution. Your second question appears to be moot in light of my response to your first question.

Opinion No. 2005-250

Pate, Mark
State Representative

RE: Do municipalities have to follow statutory bidding procedures for local projects when the funding is received from the federal government? **RESPONSE:** In my opinion, the answer to your question is, generally, yes. Receipt of funding from the federal government does not mitigate the mandatory state law competitive bidding procedures for municipalities.

ATTORNEY GENERAL OPINIONS

A municipality should be mindful of any requirements for receipt of the federal moneys involved.

Opinion No. 2005-253

Cooper, Eddie
State Representative

RE: Can a convicted felon be prohibited from owning, possessing, or hunting with a bow and arrow?
RESPONSE: In my opinion, a convicted felon who has completed his or her sentence, including parole, is not prohibited from owning, possessing, or hunting with a bow and arrow based on his or her felon status alone. See Op. Att’y Gen. 89-370. A convicted felon placed on probation, however, could be prohibited from owning, possessing, or hunting with a bow and arrow as a condition of his or her probation. In my opinion, a convicted felon on parole may be prohibited from owning, possessing, or hunting with a “dangerous weapon” under Condition 5 of the Conditions of Release of the Arkansas State Parole Board. Whether a particular bow and arrow would be considered a dangerous weapon is a question of fact to be addressed on a case-by-case basis, but I will note that any bow and arrow employed in archery hunting of wildlife such as deer would likely be considered a “dangerous weapon.”

Opinion No. 2005-258

Wills, Robbie
State Representative

RE: Is it permissible for the Faulkner County Museum, established pursuant to ACA 13-5-501, to transfer donated monies, either in the form of memorials or other unrestricted funds, from the Museum’s checking account to the Museum’s private foundation account?
RESPONSE: In my opinion, the Division of Legislative Audit was in all likelihood correct in advising that funds committed to the statutorily established Faulkner County Museum should not be transferred to the Faulkner County Museum Foundation, Inc., which is a private, nonprofit corporation to which a local political

subdivision or its agencies may not donate funds. See Ark. Const. art. 12, Sec. 5. Once “donated monies” are located in the museum’s checking account, I believe they become county assets that may not be conveyed to a private, nonprofit corporation’s foundation account.

Opinion No. 2005-259

Broadway, Shane
State Senator

RE: In light of the fact that a citizen was required to purchase cassette tapes of 911 calls prior to being allowed to listen to the public record on the tape, was this citizen effectively denied access to that public record under the FOIA? Q2) Is there any way for poor persons (or an incarcerated person) to access public records as an “indigent,” or without having to pay the cost of reproduction of the records?
RESPONSE: 1) The answer may depend upon additional facts, but if the citizen was charged to merely inspect, rather than copy public records, the action was in all likelihood inconsistent with the FOIA. 2) See ACA 25-19-105 (d)(3)(a)(iv), which authorizes records to be provided free of charge in some instances. With regard to incarcerated persons, see *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996).

Opinion No. 2005-261

Wills, Robbie
State Representative

RE: When cities make street improvements, such as an “overlay” on an existing street, is the city required, pursuant to the Americans with Disabilities Act (ADA), to make corresponding improvements on existing sidewalks that adjoin the section of the street being improved which have, over the years, become dilapidated or damaged from tree roots, etc.?
RESPONSE: Decline to answer because the question implicates purely federal law.

ATTORNEY GENERAL OPINIONS

Opinion No. 2005-269

Baker, Gilbert
State Senator

RE: Pursuant to provisions of ACA 6-18-507, who is allow to attend a student appeal conducted in executive session at the request of the parent or guardian? **RESPONSE:** The applicable statute, A.C.A. 6-18-507 (Repl. 1999), does not specify the persons who may attend the executive session. In addition, the provisions of the Freedom of Information Act ("FOIA") addressing executive sessions for certain employment matters are inapplicable to the proceedings authorized by the more particular provisions of A.C.A. 6-18-507. It has been suggested by leading commentators on the FOIA that because a school board is to hear "all testimony and debate" in executive session, that the board, persons with knowledge of the incident giving rise to the suspension or expulsion, the lawyers for the board and the students, and the student's parents or guardians should be permitted to attend. Absent legislative or judicial clarification, I concur in this view.

Opinion No. 2005-270

Bradford, Jay
State Representative

RE: Under ACA 14-14-112(b)(3), "the County Judge, as the chief executive officer of the county, shall have custody of county property and shall be responsible for the administration, care and keeping of such county property." Does this statute, or any other Arkansas law, preclude a quorum court from passing an ordinance requiring all county vehicles to be permanently affixed with decals to the exterior (driver and passenger doors) clearly identifying them as property of the county? **RESPONSE:** In my opinion, "no." I recently opined that "an ordinance requiring the placement of decals on county-owned vehicles would not generally violate the principle of separation of powers in county government or intrude into the powers reserved to the county judge or other county constitutional officers." Op. Att'y Gen. 2005-252. I reiterate my previous

opinion and have enclosed a copy of Opinion No. 2005-252 for your convenience.

Opinion No. 2005-271

Harris, Eric
State Representative

RE: Can an employee's completed exit interview form be subject to public inspection and copying under the Arkansas Freedom of Information Act ("FOIA"), ACA 25-19-101 et seq.? **RESPONSE:** In my opinion "yes," a completed exit interview "can" be subject to inspection and copying under the FOIA, but the particular contents of an exit interview document may dictate that the document be withheld or that some information be redacted.

Opinion No. 2005-282

Dunn, David K.
State Representative

RE: Does Arkansas Code require the seller of a Quick Response Alarm ("QRA") system to be licensed or classified as a security and alarm contractor? **RESPONSE:** I am unable to answer this question, which does not provide me with sufficient information to determine whether the producer of the QRAs would be subject to licensing and regulation under the Private Investigators and Private Security Agencies Act, A.C.A. 17-40-101 through -354 (Repl. 2001 & Supp. 2005). I will note that A.C.A. 17-40-103(a)(10) exempts from the requirements of the Act "[a] person who or business which sells or manufacturers [sic] alarm systems, unless such a person or business performs any service as described in 17-40-102(5)." Jurisdiction to determine whether this exemption might apply resides not in this office, but rather in the Administrator of the Arkansas Board of Private Investigators and Private Security Agents, who by statute exercises the exclusive authority to regulate and to license the alarm and security industry. A.C.A. 17-40-106.

ATTORNEY GENERAL OPINIONS

Opinion No. 2005-283

Smith, Steve G.
Chair, AR State Police Commission

RE: Pursuant to provisions of ACA 12-8-214(a), does the Arkansas State Police Commission have the discretion to award a service weapon to a trooper who voluntarily resigns but is not yet eligible to receive a retirement annuity? **RESPONSE:** No. a state police officer “retires” within the meaning of the law pertaining to the State Police Retirement System when he or she leaves employment with a pension benefit. See 24-6-201 (definitions under retirement law).

Opinion No. 2005-287

Capps, John Paul
State Senator

RE: Is a sub-acute hospital facility that was recently acquired by a nonprofit (not-for-profit) hospital exempt from paying ad valorem taxes on the real and personal property that was formerly owned by a for-profit corporation? **RESPONSE:** This requires a factual determination that is initially within the exclusive province of the tax assessor. The opinion discusses, generally, the charitable exemption under Ark. Const. article 16, section 5 (exempting from taxation “buildings and grounds and materials used exclusively for public charity.”)

Opinion No. 2005-289

Davenport, Monty
State Representative

RE: Can a county enact setbacks on county roads? **RESPONSE:** In my opinion, ACA 14-17-201 through 14-17-211 (Repl. 1998 & Supp. 2005) provide that either the county planning board or the quorum court, if the quorum court has chosen to specifically retain the powers of a county planning board through an ordinance, has the authority to either recommend a setback line to the quorum court or to pass an

ordinance detailing the setback distance from “major streets and highways” in conjunction with the county plan contemplated in the section.

Opinion No. 2005-295

Glover, Bobby L.
State Senator

RE: Can the mayor of an Arkansas city accept the only bid received at a bid opening without a meeting or vote of the city council and still be in compliance with the Freedom of Information Act (FOIA)? Q2) Are disciplinary write-ups in a personnel file subject to disclosure under the FOIA? **RESPONSE:** Q1) I do not believe the communication you describe between the city clerk and individual council members regarding a matter on which the city council has no authority to act would be subject to the open-meetings provisions of the Arkansas Freedom of Information Act (the “FOIA”), A.C.A. 25-19-101 through -109 (Repl. 2002 & Supp. 2005). Q2) Disciplinary write-ups in a personnel file will be subject to disclosure under the FOIA only if there has been a final administrative resolution of any suspension or termination proceeding involving the employee, the records at issue formed a basis for the decision to suspend or terminate the employee, and a compelling public interest in disclosing the documents exists. A.C.A. 25-19-105(c)(1).

Opinion No. 2005-300

Dunn, David
State Representative

RE: Based upon the language added to ACA 6-21-108 by Act 2260 of 2005, may the Forrest City School District continue to consider a sale of two campuses no longer in use to a municipality and/or a not-for-profit corporation if the offer includes both a monetary offer and non-monetary benefits/detriments to the District? If so, must those non-monetary benefits be limited to those items specifically set forth in ACA 6-21-108(b)(1)(C)? Q2) In the event that offers to

ATTORNEY GENERAL OPINIONS

purchase are received from both for-profit corporations and not-for-profit corporations (including the municipality), must the District accept the highest monetary bid, regardless of non-monetary benefits/detriments to the District, as determined by the Board of Directors? If the answer is "yes," can the District accept a bid less than appraised value? Q3) If one of the offers is from a non-profit corporation, with the intention of establishing a private school, may the District reject that bid on the basis that the establishment of a private school within the District's boundaries would constitute a detriment to the District in terms of competition for enrollment of students residing in the District? RESPONSE: Q1) Yes, subject to the qualification that nonmonetary "detriments" to the district obviously could not qualify as consideration in support of the contract. The answer to the second part of your first question is, in all likelihood, "no": it does not logically follow that a statutory authorization to donate school district property for a limited range of purposes means that those purposes are the only ones that might qualify as nonmonetary consideration in support of a contract. Rather, in accordance with previous pronouncements from this office, I believe any nonmonetary consideration that results in a "public advantage" to education specifically benefiting the school district, including, but not necessarily limited to, the purposes recited in A.C.A. 6-21-108(b)(1)(C) (Supp. 2005), would be adequate to support a conveyance of school district property no longer needed for school purposes. Q2) In my opinion, the answer to the first two parts of your second question is "no": a school district board may exercise considerable discretion in determining what net consideration, including nonmonetary consideration, would best serve the district's interests. However, again, nonmonetary "detriments" to a district can never constitute consideration in support of a contract to dispose of school district property no longer needed for school purposes. In light of my response to the first two parts of question 2, the third part of the question is moot. Q3) I believe a school district board might in its discretion reject an offer from a prospective purchaser of school district property based upon the fact that the prospective purchaser intends to use the property to establish a private school that might erode the public school district's student population base. In

my opinion, no constitutional or statutory provision would preclude a school district from considering such a nonmonetary factor in determining whether to accept a particular bid.

Opinion No. 2005-301

Cooper, Eddie
State Representative

RE: Will provisions of ACA 20-10-1204(a)(5) and Rule 555.1 of the Rules and Regulations for Nursing Homes of the Office of Long Term Care (rev. 12/1/05) (State "freedom of choice" laws regarding the choice of a pharmacy by residents of a long term care facility), continue to be enforceable following the January 1, 2006 implementation of Medicare Part D with respect to: 1) Medicare patients; 2) Medicaid patients; and 3) private pay patients? **RESPONSE:** Part D does not affect the enforceability of freedom of choice in Arkansas. Fact questions may arise under 42 U.S.C. Sec. 1320c-5 regarding quality of care under this federal mandate. But the standards and criteria set by CMS with respect to network LTC pharmacies would appear to satisfy the mandate.

Opinion No. 2006-002

Maxwell, Dub
Sponsor, Lost Cherokee of Arkansas

RE: Request for certification of the popular name and ballot title of a proposed constitutional amendment recognizing the Lost Cherokee of Arkansas as an Indian tribe. **RESPONSE:** Popular name and ballot title rejected as being outside the power of initiative. See Opinion 2005-285.

Opinion No. 2006-003

Copley, Stephen
Sponsor, Give Arkansas A Raise

RE: Request for certification of the popular name and ballot title of a proposed constitutional amendment

ATTORNEY GENERAL OPINIONS

regarding the minimum wage in Arkansas.
RESPONSE: Popular name certified as submitted.
Ballot title substituted and certified.

Opinion No. 2006-006

Whitmore, Mark J.
General Counsel, Assoc of Ark

RE: Request for approval of an agreement between Jefferson County and the University of Arkansas at Pine Bluff to provide digital radio equipment for use and maintenance of an emergency response system.
RESPONSE: Approved as submitted.

Opinion No. 2006-007

Davis, Andy
Reporter, Arkansas Democrat-

RE: Is the decision of the custodian of records to withhold release of all records related to the termination of a former state employee in response to a Freedom of Information Act request consistent with provisions of the FOIA? RESPONSE: To the extent the custodian's decision is based upon the lack of a "compelling public interest" in disclosure, in all likelihood "no."

Opinion No. 2006-009

Wasserman, Michael J.
Arkansas Resorts & Hotels, Inc.

RE: Request for certification of the popular name and ballot title of a proposed constitutional amendment to establish a state-run lottery, authority charitable bingo and raffles, authorize casino gambling, establish the

Arkansas Educational Trust Fund, and for other purposes. RESPONSE: Popular name and ballot title rejected due to ambiguities in the text of the proposed measure.

Opinion No. 2006-021

Critcher, Jack
State Senator

RE: In light of the fact that the Midland School district has been classified as a district in fiscal distress (pursuant to ACA 6-20-1901 et seq.) and the State Board of Education is planning to consider annexing Midland to another contiguous, surrounding school district; is there any prohibition from private persons donating cash funds to assist the Midland School District in eliminating any deficit in its operating expenditures and/or to remove debt obligations coming due against the district? Q2) If there is no prohibition and considering that the Arkansas Department of Education (ADE), a state agency, now has taken over administrative control of the school district, is there any specific authority or process necessary by which the ADE must apply these cash funds to eliminate any deficit operating balances and/or eliminate any debt obligations jeopardizing the fiscal liability of the District? RESPONSE: 1) In all likelihood "no," there is no statutory prohibition that would preclude a school district from receiving private donations. 2) "No," the Department of Education is afforded considerable discretion in determining how it will marshal any and all assets, including private donations that might be available to address the district's condition. It is within the Department's discretion to determine (and recommend to the Board), that the donation, along with other available resources, demonstrates that the district is no longer in fiscal distress or that no annexation, consolidation, or reconstitution of the district is warranted.

ADOPTED RULES AND REGULATIONS

ARKANSAS TEACHER RETIREMENT SYSTEM

Docket No: 088.00.06-001F
Effective Date: 02/16/2006
Contact: Julie Cabe
Telephone: 501-682-1836

**Rule No. 9-1: Age and Service
“Voluntary” — Retirement H - Annuity
Options; Rule No. 11-1: Survivor
Benefits; Rule 11-2: Lump-Sum Death
Benefit**

ATHLETIC COMMISSION

Docket No: 022.00.05-001F
Effective Date: 02/08/2006
Contact: John Mattingly
Telephone: 501-562-3366

Revised Rules and Regulations

BOARD OF ACUPUNCTURE & RELATED TECHNIQUES

Docket No: 190.00.05-001F
Effective Date: 02/18/2006
Contact: Scott Faughn
Telephone: 501-372-4500

**Amendments / Revisions to Rules: Title I
B(4), Title III A.2(b)3, Title III C.1, Title III C.2,
Title IV A.4, Title IV B.2(a), Title IV
B.2(b)(c)(d)**

COMMISSION FOR PUBLIC SCHOOL ACADEMIC FACILITIES & TRANSPORTATION

Docket No: 203.00.06-001E
Effective Date: 01/31/2006
Contact: Doug Eaton
Telephone: 501-682-4261

**Emergency Rule: Rules Governing the
Transitional Academic Facilities Program**

DEPARTMENT OF COMMUNITY CORRECTION

Docket No: 159.00.05-001F
Effective Date: 02/09/2006
Contact: Veter Howard
Telephone: 501-682-9568

**AR 7.8 — Transitional Living Program
Licensure**

Docket No: 159.00.05-002F
Effective Date: 02/09/2006
Contact: Veter Howard
Telephone: 501-682-9568

**AR 1.4 — Community Correction Center
Criteria And Standards**

ADOPTED RULES AND REGULATIONS

EDUCATION DEPARTMENT

Division of Fiscal & Administrative Services

Docket No: 005.01.06-003E
Effective Date: 02/08/2006
Contact: Scott Smith
Telephone: 501-682-4227

Emergency Rule: Amendment to Rules Governing the Arkansas Comprehensive Testing, Assessment and Accountability Program (ACTAAP) and the Academic Distress Program

Docket No: 005.01.06-003F
Effective Date: 02/18/2006
Contact: Janinne Riggs
Telephone: 501-682-4219

Amendment to Rules Governing the Arkansas Comprehensive Testing, Assessment and Accountability Program (ACTAAP) and the Academic Distress Program

Human Resources

Docket No: 005.16.06-003E
Effective Date: 02/08/2006
Contact: Scott Smith
Telephone: 501-682-4227

Emergency Rule: ADE 232 - Rules Governing Waivers of the Earning Limitations Under the Teacher Retirement System (ATRS)

HUMAN SERVICES

Children & Family Services

Docket No: 016.15.05-003F
Effective Date: 01/30/2006
Contact: Vellor Williams
Telephone: 501-682-8196

Forms Manual - CFS-300, CFS-300A, CFS-312A, CFS-312B, CFS-384, CFS-423 and CFS-428A

County Operations

Docket No: 016.20.06-001F
Effective Date: 02/20/2006
Contact: Troy Branscum
Telephone: 501-682-8722

Weatherization Assistance Program 2006 State Plan

Medical Services

Docket No: 016.06.05-055F
Effective Date: 01/29/2006
Contact: Debra Garrison
Telephone: 501-682-5424

State Plan Amendment #2005-005

Docket No: 016.06.05-097F
Effective Date: 03/01/2006
Contact: Dorothy Vance
Telephone: 501-683-2916

Occupational, Physical and Speech Therapy Services Update Transmittal #55

ADOPTED RULES AND REGULATIONS

Docket No: 016.06.05-098F
Effective Date: 03/01/2006
Contact: Renita Honorable
Telephone: 501-682-8577

Visual Care Provider Manual Update Transmittal #66

Docket No: 016.06.05-099F
Effective Date: 03/01/2006
Contact: Nikki Wade
Telephone: 501-682-8292

Child Health Services / Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Provider Manual Update Transmittal #71

Docket No: 016.06.05-101F
Effective Date: 03/01/2006
Contact: Dorothy Vance
Telephone: 501-683-2916

Rehabilitative Services for Persons with Physical Disabilities Provider Manual Update Transmittal #38

Docket No: 016.06.05-102F
Effective Date: 03/01/2006
Contact: Betty Reed
Telephone: 501-682-8363

Flu Vaccine Rate Increase

Docket No: 016.06.05-104F
Effective Date: 03/01/2006
Contact: Tommy Wingard
Telephone: 501-682-6117

Provisional Licensure for Long-Term Care Facilities — Post Acute Head Injury Facility; Small ICF/MR; Large ICF/MR; Residential Care Facility; Nursing Home; Assisted Living Facility -Level I; Assisted Living Facility - Level II

Docket No: 016.06.05-111F
Effective Date: 03/01/2006
Contact: Betty Reed
Telephone: 501-682-8363

Alternatives for Adults with Physical Disabilities Waiver Provider Manual Update #31

Docket No: 016.06.06-002E
Effective Date: 01/20/2006
Contact: Debra Garrison
Telephone: (501) 682-5424

Emergency Rule: Official Notice DMS-2006-Q-2: Pharmacy - Prescription Drug Coverage for Dual Eligibles Covered by Medicare

Docket No: 016.06.06-004E
Effective Date: 01/27/2006
Contact: Debra Garrison
Telephone: (501) 682-5424

Emergency Rule: Official Notice DMS-2006-Q-3: Pharmacy - Prescription Drug Coverage for Dual Eligibles Covered by Medicare

ADOPTED RULES AND REGULATIONS

Docket No: 016.06.06-017E
Effective Date: 02/15/2006
Contact: Debra Garrison
Telephone: 501-682-5424

Emergency Rule: Official Notice DMS-2006-Q-4: Pharmacy - Prescription Drug Coverage for Dual Eligibles Covered by Medicare

Docket No: 016.06.06-018F
Effective Date: 01/29/2006
Contact: Renita Honorable
Telephone: 501-682-8577

State Plan Transmittal #2005-010

OIL & GAS COMMISSION

Docket No: 178.00.06-002F
Effective Date: 02/19/2006
Contact: Lawrence Bengall
Telephone: 870-862-4965

Rule D-18 — Authority to Commingle

Docket No: 178.00.06-003F
Effective Date: 02/19/2006
Contact: Lawrence Bengall
Telephone: 870-862-4965

Rule D-19 — Additional Completions Within Common Sources of Supply Within a Drilling Unit

POLLUTION CONTROL & ECOLOGY

Docket No: 014.00.05-001F
Effective Date: 02/20/2006
Contact: Dawn Guthrie
Telephone: 501-682-0889

Regulation 12 - Arkansas Regulated Storage Tank (RST) Program

Docket No: 014.00.06-006F
Effective Date: 02/23/2006
Contact: Anne Weinstein
Telephone: 501-682-0743

Regulation 14 - Rules and Procedures for the Waste Tire Program

Docket No: 014.00.06-007F
Effective Date: 02/23/2006
Contact: Anne Weinstein
Telephone: 501-682-0743

Regulation 11 - Rules for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; and Recycling Grants Program

ADOPTED RULES AND REGULATIONS

WATER WELL CONSTRUCTION COMMISSION

Docket No: 096.00.06-001F
Effective Date: 01/28/2006
Contact: Edward Swaim
Telephone: 501-682-3965

**Rules 3.5.1.5 - Geothermal; 3.10.2 (2) & (3)
- Requirements for Apprenticeship
Certification; 6.4 - Geothermal Wells;
6.4.1.4 - Direct Exchange (DX) Wells;
6.4.1.4.1 - Additional Construction
Standards for Direct exchange (DX)
Wells; 8.39 - Direct Exchange Well; 8.40
Direct Exchange Loop; 8.41 - Thermal
Fluid**

INSURANCE DEPARTMENT

06-001

Consent Order
In the Matter of
Robert Busick

06-002

Adoption Order
In the Matter of the Report of Examination of
**Northwest Arkansas Farmers Mutual
Tornado Insurance Company**

06-003

Adoption Order
In the Matter of the Report of Examination of
Farm and Home Mutual Insurance Company

06-004

Emergency License Suspension Order
In the Matter of
T. J. Walton Day

06-005

Adoption Order
In the Matter of the Report of Examination of
Brokers National Life Assurance Company

06-006

Emergency License Suspension Order
In the Matter of
Lloyd Eugene Cobb

06-007

Adoption Order
In the Matter of the Report of Examination of
Washington Farmers Mutual Fire Insurance Company

06-008

Adoption Order
In the Matter of the Report of Examination of
Farmers Mutual Insurance Company of Rogers

ORDERS AND NOTICES

LEGISLATIVE AUDIT January 30, 2006

| <u>Agency</u> | <u>Period Covered</u> |
|---|-----------------------|
| Arkansas Abstractors Board of Examiners - Two-Year Period Ended | 6/30/05 |
| State Board of Disease Intervention Specialists - Two-Year Period Ended | 6/30/05 |
| Health Resources of Arkansas, Inc. (Private) | 6/30/05 |
| White River Planning and Development District, Inc. (Private) | 6/30/05 |
| Board of Barber Examiners - Two-Year Period Ended | 6/30/05 |
| Arkansas State Board of Chiropractic Examiners - Two-Year Period Ended | 6/30/05 |
| Arkansas State Claims Commission - Two-Year Period Ended | 6/30/05 |
| Arkansas Ethics Commission - Two-Year Period Ended | 6/30/05 |
| Arkansas Board of Registered Interior Designers - Two-Year Period Ended | 6/30/05 |
| Department of Labor | 6/30/05 |
| Arkansas State Board of Landscape Architects - Two-Year Period Ended | 6/30/05 |
| Department of Rural Services - Two-Year Period Ended | 6/30/05 |
| Arkansas Veterans Child Welfare Services - Two-Year Period Ended | 6/30/05 |
| Arkansas Workforce Investment Board - Two-Year Period Ended | 6/30/05 |
| Crowley's Ridge Technical Institute | 6/30/05 |

Secretary of State
Charlie Daniels
Arkansas Register Division
State Capitol Building, Room 026
Little Rock, AR 72201-1094

***** **2006** subscriptions to the *ARKANSAS REGISTER* will be sold on a “CALENDAR YEAR” basis (January through December) only. To subscribe to the *ARKANSAS REGISTER* complete the following form and mail to the address given above.

_____ I would like to subscribe to the *ARKANSAS REGISTER* for the **2006** year (January through December) at the price of **\$40** per subscription.

_____ I would like to order the following copies of the *ARKANSAS REGISTER* at \$3.50 per copy.

Volume: _____ **Issue:** _____

Name: _____

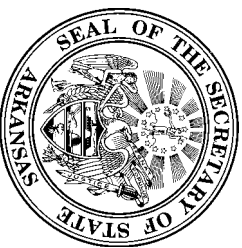
Address: _____

City: _____ **State:** _____ **Zip:** _____

Contact Person: _____ **Phone No.:** () _____

The *ARKANSAS REGISTER*, an official publication of the State of Arkansas, is published monthly with a cumulative index published annually. Subscribe to the *ARKANSAS REGISTER* by completing the form above and mailing it to the address given on the form. Make all checks payable to the *ARKANSAS REGISTER*.

ARKANSAS REGISTER



Charlie Daniels
Secretary of State
Arkansas Register Division
State Capitol, Room 026
Little Rock, AR 72201-1094