

NOTICE OF RULEMAKING

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Arkansas Health Services Permit Agency is considering proposed additions and changes to its Rules and Regulations. A public hearing will be held on Thursday, September 10, 2009 at 10:00 am at the Arkansas Department of Environmental Quality in North Little Rock, AR. Written comments from the public will be accepted in advance of the meeting if received by Friday, September 4, 2009 at 4:30 p.m. Written comments should be mailed to the Agency at 5800 W. 10th St., Suite 805, Little Rock, AR 72204. The proposed additions and changes to the Rules and Regulations consist of changes to the Nursing Home Methodology and an increase in the POA application fee. Copies of the proposed changes may be obtained at the Agency and at www.arhspa.org and are available for public inspection.

B. The Application/Review Process

The following are the steps of the application process. Each step must be completed before a decision on the project can be rendered.

1. Application Form. The appropriate application forms must be obtained from the Agency.
2. Pre-application conference/technical assistance. If needed, a meeting will be scheduled at the request of the applicant between the applicant and an Agency representative. The meeting is to assist the applicant and to provide guidance in the preparation of the application.
3. Submission of the Application and Appropriate Review Fee. The applicant is responsible for the timely submission to the Agency of **an** original and ~~two (2) copies~~ **one (1) copy** of a completed application and the review fee. The application must be signed in blue ink. The review fee is ~~\$1,000~~ **\$1,500** for all reviews. In the event that an application decision results in a hearing before the Commission, the requesting party will be charged the prevailing agency cost per page to cover the cost for the additional copies required for the hearing.

SECTION III. SCOPE OF REVIEW

The Agency (under the direction of the Commission or appropriate Court) will issue, deny or withdraw Permits of Approval. Using the Commission's rules and procedures, the Agency may exempt appropriate projects from review. Each recommendation of the Agency must be based on the completed application and its relationship to adopted standards and criteria. Each review decision of the Commission must be consistent with adopted standards, criteria and the record of the review.

A. PROJECTS REQUIRING PERMIT OF APPROVAL REVIEW INCLUDE BUT ARE NOT LIMITED TO:

1. Nursing Home Construction

All proposals for conversion of services or alteration or renovation or construction having an associated capital expenditure of ~~\$500,000~~ **\$1,000,000** or more.

2. Additional Beds

Unless exempted by the Act or by the Commission, all health facilities seeking to add new Long Term Care (LTC) beds or otherwise expand LTC bed capacity shall apply for a Permit of Approval.

3. Home Health Services

Unless exempted by the Act or by the Commission, all health facilities seeking to add home health services or expands existing home health service areas shall apply for a Permit of Approval. This includes changes in license designation.

4. Hospice

Unless exempted by statute or by the Commission, all hospices or hospice programs shall apply for a Permit of Approval.

5. Cost Overrun

Any increase in cost in an approved project or cost of

renovation or construction or alteration of a health facility is deemed a cost overrun and must be documented and filed with the agency. (During the course of review, the reasonableness of the proposed capital expenditure will be evaluated. A reasonable contingency cost in anticipation of a possible increase in cost due to inflation or other unforeseen factors will be allowed as part of the proposed capital expenditure).

B. PROJECTS REQUIRING APPROVAL BY THE COMMISSION:

1. Movement of Existing LTC beds ---

Any movement of LTC beds from one site to another site within the service area must be approved by the Commission. The applicant should submit the request in writing to the Agency. Any proposed movement of beds is subject to the time limitations in Section VI.A and the reporting requirements of Section VI.B of the Commission's Procedures. Failure to comply with these requirements will result in the withdrawal of permission to move the beds.

2. Movement of Site Location of Permit of Approval ---

Any movement of a site location for a project approved by the Commission for an existing Permit of Approval is subject to review. The applicant shall submit a request to the Agency in writing, detailing all information required in the original application regarding a site, the reasons for relocating the site from the original application approved, any additional costs associated with the relocation, and the time remaining for completion under various rules and regulations of the Commission regarding implementation of a Permit of Approval. The Commission, at its next regularly scheduled meeting, must approve the relocation before site location change is made. The relocation shall not extend the deadline for implementation of a Permit of Approval.

3. Transfer of Permit of Approval, legal title, or right of ownership

A permit of approval may only be transferred if the entity presently holding the permit, legal title, or right of ownership has tangible assets of at least two thousand five hundred dollars (\$2,500) that will be transferred with the permit, legal title or right of ownership, and then only with the

approval of the Commission. The applicant must provide proof of tangible assets. Any person requesting approval to receive a Permit of Approval via transfer from an existing permit holder must submit an application for a permit of approval to the Agency in accordance with Section V – Procedures for Review. A permit of approval may not be transferred to a county other than the county where the current permit of approval is located unless authorized in the applicable methodology.

C. PROJECTS EXEMPT FROM PERMIT OF APPROVAL PROCESS:

1. Capital Expenditures less than adopted thresholds

Projects proposed for the construction, expansion, or alteration by or on the behalf of a nursing home, which have an associated capital expenditure of less than ~~\$500,000~~ **\$1,000,000** and do not add LTC beds or home health services.

2. Hospitals Licensed in Arkansas are not subject to review except when a hospital seeks to add long-term care beds or convert acute beds to long-term beds or add or expand home health services.

3. Conversion of Services or New Services

A conversion of services offered in an existing health facility or alteration or renovation of an existing health facility having an associated capital expenditure of less than ~~\$500,000~~ **\$1,000,000** for nursing homes and not resulting in additional bed capacity.

4. Acquisition of a Health Facility

The obligation of a capital expenditure to acquire an existing health care facility shall not require a Permit of Approval. Such an exemption applies to an acquisition by purchase, lease, donation or transfer of ownership.

5. Religious Facilities

Any facility which is conducted by and for those who rely exclusively upon treatment by prayer alone for healing in

accordance with the tenets or practices of any recognized religious denomination.

6. Outpatient Surgery Centers
7. Imaging Centers
8. Free Standing Radiation Therapy Centers