

Mississippi Secretary of State
125 S. Congress Street, Jackson, MS 39201

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME MS State Department of Health		CONTACT PERSON Jim Craig	TELEPHONE NUMBER 601-576-7847	
ADDRESS P O Box 1700		CITY Jackson	STATE MS	ZIP 39215 -1700
EMAIL Cassandra.walters@msdh.ms.gov	SUBMIT DATE 8/15/22	Name or number of rule(s): Title 15, Part 16, Subpart I, Chapter 41 - Minimum Standards of Operation for Mississippi Hospitals		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: For hospitals to require criminal background checks every two years for each employee.

Specific legal authority authorizing the promulgation of rule: 41-9-17, 41-75-13

List all rules repealed, amended, or suspended by the proposed rule: Rule 41.2.5, 41.6.18, 41.43.1, 41.45.10, 41.73.4, 41.83.19, 41.83.21, 41.83.22, 41.85.25, 41.84.16

ORAL PROCEEDING:

- ☒ An oral proceeding is scheduled for this rule on Time: Sep 12, 2022 10:00 AM Central Time (US and Canada)
Join from PC, Mac, Linux, iOS or Android: <https://us06web.zoom.us/j/84671510760>
☐ Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

- ☐ Economic impact statement not required for this rule. ☒ Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately upon filing _____ Other (specify): _____	Action proposed: _____ New rule(s) ☒ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed final effective date: ☒ 30 days after filing _____ Other (specify): _____	Date Proposed Rule Filed: _____ Action taken: _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Jim Craig, Senior Deputy and Director of Health Protection
Signature of person authorized to file rules: *Jim Craig*

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
Accepted for filing by _____	 Accepted for filing by <u>26522</u> <u><i>JMann</i></u>	Accepted for filing by _____

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME Mississippi State Department of Health	CONTACT PERSON Jim Craig	TELEPHONE NUMBER 601-576-7847
ADDRESS 570 East Woodrow Wilson Avenue	CITY Jackson	STATE MS
EMAIL Cassandra.walter@msdh.ms.gov	ZIP 39208	
DESCRIPTIVE TITLE OF PROPOSED RULE Title 15: MSDH Part 16: Health Facilities Subpart 1: Health Facilities Licensure and Certification		
Specific Legal Authority Authorizing the promulgation of Rule: <u>Miss. Code Ann. §41-9-17</u>	Reference to Rules repealed, amended, or suspended by the Proposed Rule: 41.6.18 and 41.84.16	

A. Estimated Costs and Benefits

1. Briefly summarize the benefits that may result from this regulation and who will benefit: The proposed rules ensure hospitals have addressed through policy the necessary actions needed for all employees and volunteers to undergo criminal history record checks every two years. Implementation of this regulation will benefit the patients and families who receive care from the hospital by providing a safe environment for them and by decreasing criminal behavior that could take place within the hospital. Surveyors who work for the MS State Department of Health will benefit from this regulation change as well by receiving fewer complaints of criminal behavior reported to the department.
2. Briefly describe the need for the proposed rule: Currently, hospitals are only required to perform a criminal history record check on employees providing direct care or services to a patient when hired. An employee only receives another criminal history record check if they are hired by another healthcare facility and if their current criminal record check has not passed the two-year expiration date, therefore, they can be hired at another hospital without receiving an additional criminal history record check after being fired from the previous hospital for criminal behavior if it is within the two-year time frame. All employees, including volunteers that are hired at a hospital need to receive a criminal history record check at initial hiring and every two years.
3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare: The proposed rules allow the development of policy to require hospitals perform criminal history record checks on their employees and volunteers on initial hire date and every two years to ensure the safety of patients and families while receiving care within these facilities.
4. Estimated Cost of implementing proposed action:
 - a. To the agency
☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
 - b. To other state or local government entities
☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:
 - c. Cost:
☐ Nothing ☐ Minimal ☒ Moderate ☐ Substantial ☐ Excessive
 - d. Economic Benefit:
☐ Nothing ☐ Minimal ☐ Moderate ☒ Substantial ☐ Excessive
6. Estimated impact on small businesses:
☐ Nothing ☐ Minimal ☒ Moderate ☐ Substantial ☐ Excessive

- a. Estimate of the number of small businesses subject to the proposed regulation: Seven hospitals out of the 27 hospitals that responded to the survey considered their facility as a small business.
- b. Projected costs for small businesses to comply: Only seven hospitals responded to the hospital survey that considered their facility as a small business. Two hospitals noted that implementation of the rule would add additional time to their human resources department to complete normal routine duties. Seven hospitals noted that implementation of the rule would add additional costs to their facility, and a few are already in a financial crisis. The total estimated cost, for all 27 hospitals that submitted the survey, for implementing every employee to receive a criminal history background check every two years totals to \$800,000.00.
- c. Statement of probable effect on impacted small businesses: Of the 27 hospitals that responded to the survey, the seven hospitals that indicated significant costs were small hospitals. One hospital noted the impact will directly affect their human resources department by adding 254 hours to their workload at pay rate of \$20.00 an hour totaling to \$5,080.00 additional in salary paid out along with and additional \$920.00 for software costs. One hospital noted the impact will cost them approximately \$75,000.00 per year with 117 new hires annually (\$5,850.00) plus an additional 511 employees needing initial test and every 2 years testing (\$25,550.00 plus 73 that will require testing due to disciplinary action every two years (\$3,650.00), \$50.00 per test, we will have to hire a new FTE to manage this burdensome process at a cost of \$30,000.00 additional overhead cost of \$10,000.00. One hospital noted the impact will cost them \$25,000.00 bi-annually. One hospital noted the impact will cost them \$18,000.00 additional in salaries to hire two employees and with having prints processed. One hospital noted the impact will cost \$72,500.00 (1,450 employees times \$50 each) \$40,890.00 (Hourly rate of pay of person submitting prints) with an estimated cost per year \$113,390.00. One hospital noted the impact will cost \$6,000.00 annually for the number of employees currently employed at the facility to receive a background check according to the fee. One hospital noted the impact will cost \$100.00 per employee, \$50.00 cost of background check, and \$50.00 cost of postage, along with allotted time for getting a notary, time, and labor.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):

- ☐ substantially less than ☐ moderately less than ☐ minimally less than
☐ the same as ☐ minimally more than ☒ moderately more than
☐ substantially more than ☐ excessively more than

8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):

- ☐ substantially less than ☐ moderately less than ☐ minimally less than
☐ the same as ☐ minimally more than ☐ moderately more than
☒ substantially more than ☐ excessively more than

B. Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?

- ☒ yes ☐ no

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.)

Alternatives:

- Removing the requirement for the \$50.00 fee paid to the MS Department of Health to rerun background checks and the requirement to send a clearance letter when we rerun the background checks would lessen the administrative burden.
- Changing every two years to every five years.

Reasons to reject alternatives:

- The Mississippi State Department of Health pays a vendor to process prints and the department must recoup that cost.
- The suggestion to amend rule to require every employee to receive a criminal history record check every two years was received from a Mississippi hospital.
- The Federal Bureau of Investigation for national criminal history record checks authorizes the charge of a \$50.00 fee by the licensing agency. This is located in statute.

C. Data and Methodology

1. Please briefly describe the data and methodology you used in making the estimates required by this form. Surveys on economic impacts were sent to hospitals and were give two weeks to respond.

D. Public Notice

1. Where, when, and how may someone present their views on the proposed rule and request an oral proceeding on the proposed rule if one is not already scheduled? An oral proceeding will be scheduled on these proposed rules.

Time: Sep 12, 2022 10:00 AM Central Time (US and Canada)

Join from PC, Mac, Linux, iOS or Android: <https://us06web.zoom.us/j/84671510760>

SIGNATURE

DocuSigned by:

Jim Craig

DATE

8/15/22

TITLE

Senior Deputy and Director of
Health Protection

PROPOSED EFFECTIVE DATE OF
RULE

30 days after filing
