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Hon. Terry Rice, Co-Chair
Hon. Jeff Wardlaw, Co-Chair
Arkansas Legislative Council
1 Capitol Mall, Fifth Floor
Little Rock, Arkansas 72201

Dear Senator Rice and Representative Wardlaw:

Pursuant to Act 977 of 2021, the Arkansas Department of Human Services requests approval from the Arkansas Legislative Council to establish a COVID-19 vaccine policy for DHS employees working in healthcare facilities that are subject to the Centers for Medicare & Medicaid Services ("CMS") promulgated interim final rule ("IFR"). Act 977 of 2021 states as follows:

If a state-owned or state-controlled medical facility desires to mandate or require an individual to receive a vaccine or immunization for coronavirus 2019 (COVID-19), then the state-owned or state-controlled medical facility shall receive approval from the Legislative Council to mandate or require individual to receive a vaccine or immunization for coronavirus 2019 (COVID-19).

DHS had submitted a similar request to Council on November 17, but on November 30 DHS withdrew that request due to the preliminary injunction entered by a federal district court enjoining enforcement of the IFR. On January 13 the U.S. Supreme Court stayed that preliminary injunction, allowing CMS to begin enforcement. Therefore, DHS requests that the Arkansas Legislative Council grant permission under Act 977 for DHS to comply with the IFR and any subsequent guidance from CMS. DHS is submitting this request with the approval of Governor Hutchinson.

This request is made only to keep DHS in compliance with federal law and protect the federal funding that keeps our healthcare facilities open, as DHS opposes the IFR in principle. I am attaching to this request a copy of the comments submitted by DHS to CMS opposing the IFR.

Sincerely,

Cindy Gillespie
Secretary of Human Services