

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

ACT 1146 OF 1993
SENATE BILL 317

4 **By: Senators Bookout and Gwatney**

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For An Act To Be Entitled

8 "AN ACT TO AMEND SUBCHAPTER 1 OF CHAPTER 80 OF TITLE 17 OF
9 THE ARKANSAS CODE TO ESTABLISH INVESTIGATORS FOR THE
10 ARKANSAS STATE MEDICAL BOARD, THE ARKANSAS STATE BOARD OF
11 DENTAL EXAMINERS, THE ARKANSAS STATE NURSING BOARD, THE
12 VETERINARY MEDICAL EXAMINING BOARD AND THE ARKANSAS STATE
13 PODIATRY EXAMINING BOARD; AND FOR OTHER PURPOSES."

14

Subtitle

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16 "TO ESTABLISH INVESTIGATORS FOR BOARDS OF THE PROFESSIONS
17 OF THE HEALING ARTS."

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Subchapter 1 of Chapter 80 of Title 17 is amended by adding
22 a new section to read as follows:

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"17-80-106.

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(a) The Arkansas State Medical Board, Arkansas State Board of Dental
25 Examiners, the Arkansas State Board of Nursing, the Veterinary Medical
26 Examining Board and the Arkansas State Podiatry Examining Board are authorized
27 *to utilize as its employees, as the sole investigators for the purposes*
28 *described in this act, the investigators and inspectors of the Division of*
29 *Pharmacy Services and Drug Control, Arkansas Department of Health.*

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(b) The Department of Health is directed to make investigators and
31 inspectors of the Division of Pharmacy Services and Drug Control available for
32 such purposes and for as long as they may conduct investigations and
33 inspections of alleged wrong doing of those individuals licensed or permitted
34 by the Arkansas State Medical Board, Arkansas State Board of Dental Examiners,
35 the Arkansas State Nursing Board, the Veterinary Medical Examining Board and
36 the Arkansas State Podiatry Examining Board.

1 (c) The investigators, upon written request of a person licensed by the
2 respective licensing board and with authorization by the Director of the
3 Division of Pharmacy Services and Drug Control pursuant to appropriate
4 authority from the board may investigate, inspect, make copies of medical
5 records, dental records, nursing records, drug orders, prescriptions,
6 veterinary records, and Podiatry wherever located of all persons licensed by
7 the medical, dental, nursing, veterinary and podiatry boards, in order for the
8 respective licensing board to determine whether or not any persons have:

9 (1) violated the laws of the State of Arkansas or the United
10 States, respecting the prescribing, administering and use of narcotics and
11 potentially dangerous drugs, or

12 (2) have practiced their profession in such a way as to endanger
13 the general health and welfare of the public, or

14 (3) otherwise violated the practice act or rules and regulations
15 of that respective board.

16 (d) Copies of records, prescriptions, or orders shall not become public
17 record by reason of their use in disciplinary proceedings held by the
18 licensing board, nor shall the patients or licensed medical professions_
19 property right to said prescriptions, orders or records be extinguished by
20 such use.

21 (e) The investigators may obtain copies of said prescriptions, orders
22 and records as admissible evidence without the necessity of the issuance of an
23 administrative inspection warrant or search warrant as authorized by §5-64-502
24 of the Arkansas Code, as amended. Said investigators must have in their
25 possession, however, an authorization by the Director of the Division of
26 Pharmacy Services and Drug Control. The licensee may refuse the request of
27 the investigator and not tender copies of the records.

28 (f) If prescriptions, orders or records are to be used in criminal
29 proceedings they shall be obtained by investigators only on an administrative
30 inspection warrant. No inspection warrant is necessary where prescriptions,
31 orders or records are to be used solely for board disciplinary purposes.

32 (g) Each of the boards will have the power in lieu of a letter of
33 authority to issue to the investigators a subpoena to obtain copies of the
34 records referred to herein and the investigators will have the authority to
35 serve said subpoena and collect said records.

1 (h) In the event a witness served with the subpoena fails to honor the
2 subpoena then the particular board issuing the subpoena may apply to the
3 circuit court for remedies as provided in the Arkansas Rules of Civil
4 Procedure. The court shall have the power to punish the disobedient witness
5 for contempt as now provided by law in the trial of civil cases.

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7 (i) The Division of Pharmacy Services and Drug Control, the Arkansas
8 Department of Health shall have the authority to collect for:

- 9 (1) travel expenses at the level for state employees; and
10 (2) other out-of-pocket costs, incurred by the division in
11 carrying out its investigative task from the individual board utilizing the
12 services delineated herein."

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14 SECTION 2. All provisions of this act of a general and permanent nature
15 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
16 Revision Commission shall incorporate the same in the Code.

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18 SECTION 3. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

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24 SECTION 4. All laws and parts of laws in conflict with this act are
25 hereby repealed.

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27 SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the
28 Seventy-Ninth General Assembly that it is necessary to provide investigative
29 services to the Arkansas State Medical Board, Arkansas State Board of Dental
30 Examiners, the Arkansas State Board of Nursing, the Veterinary Medical
31 Examining Board and the Arkansas State Podiatry Examining Board so that those
32 individual boards may carry out their statutory duty by protecting the health
33 and welfare of the citizens of Arkansas. Therefore immediate effect should be
34 given this measure and an emergency is hereby declared to exist and this act
35 being necessary for the immediate preservation of the public peace, health and

1 safety shall be in full force and effect from and after its passage and
2 approval.

3 /s/ Senators Bookout and Gwatney

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5 APPROVED: 4/14/93

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