

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1440 of the Regular Session

As Engrossed: H3/2/05 S3/21/05

A Bill

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

HOUSE BILL 1946

4
5 By: Representatives S. Prater, Borhauer, Goss, *Ragland*

6 By: Senator Laverty
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9 **For An Act To Be Entitled**

10 AN ACT TO CREATE THE CONSUMER DIRECTED CARE ACT;
11 TO EXEMPT HOME HEALTH MAINTENANCE ACTIVITIES FROM
12 THE NURSE PRACTICE ACT; AND FOR OTHER PURPOSES.
13

14 **Subtitle**

15 THE CONSUMER DIRECTED CARE ACT.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 17-87-103 is amended to read as follows:

21 17-87-103. Exceptions.

22 This chapter does not prohibit:

23 (1) The furnishing of nursing assistance in an emergency;

24 (2) The practice of nursing which is incidental to their program
25 of study by students enrolled in nursing education programs approved by the
26 board;

27 (3) The practice of any legally qualified nurse of another state
28 who is employed by the United States Government, or any bureau, division, or
29 agency ~~thereof~~, while in the discharge of his or her official duties, in
30 installations where jurisdiction has been ceded by the State of Arkansas;

31 (4) The practice of any legally qualified and licensed nurse of
32 another state, territory, or foreign country, whose responsibilities include
33 transporting patients into, out of, or through this state, while actively
34 engaged in patient transport, that does not exceed forty-eight (48) hours in
35 this state;



1 (5) Nursing or care of the sick, when done in connection with
2 the practice of the religious tenets of any church by its adherents ~~thereof~~;

3 (6) The care of the sick, when done in accordance with the
4 practice of religious principles or tenets of any well-recognized church or
5 denomination which relies upon prayer or spiritual means of healing;

6 (7) The administration of anesthetics, under the supervision of,
7 but not necessarily in the presence of, a licensed physician, dentist, or
8 other person lawfully entitled to order anesthesia, by a graduate nurse
9 anesthetist awaiting certification results while holding a temporary permit;

10 (8) The administration of anesthetics, under the supervision of,
11 but not necessarily in the presence of, a licensed physician, dentist, or
12 other person lawfully entitled to order anesthesia, by a registered nurse who
13 is enrolled as a bona fide student pursuing a course in a nurse anesthesia
14 school which is approved by a nationally recognized accrediting body and
15 whose graduates are acceptable for certification by a nationally recognized
16 certifying body, provided the giving or administering of the anesthetics is
17 confined to the educational requirements of the course and under the direct
18 supervision of a qualified instructor;

19 (9) Hospital-employed professional paramedics from administering
20 medication for diagnostic procedures under the direction of a physician; ~~or~~

21 (10) The prescription and administration of drugs, medicines, or
22 therapeutic devices in the presence of and under the supervision of an
23 advanced practice nurse holding a certificate of prescriptive authority, a
24 licensed physician, or licensed dentist by a registered nurse who is enrolled
25 as a student in an advanced pharmacology course, provided the prescription or
26 administration of drugs or medicines, or both, is confined to the educational
27 requirements of the course and under the direct supervision of a qualified
28 instructor; or

29 (11)(A) Health maintenance activities by a designated care aide
30 for a:

31 (i) Competent adult at the direction of the adult;

32 or

33 (ii) Minor child or incompetent adult at the
34 direction of a caretaker.

35 (B) For purposes of this section:

36 (i) "Caretaker" means a person who is:

1 (a) Directly and personally involved in
2 providing care for a minor child or incompetent adult; and

3 (b) The parent, foster parent, family member,
4 friend, or legal guardian of the minor child or incompetent adult receiving
5 care under subdivision (11)(B)(i)(a) of this section;

6 (ii) "Competent adult" means an individual who:

7 (a) Is eighteen (18) years of age or older;

8 and

9 (b) Has the capability and capacity to make an
10 informed decision; and

11 (iii) "Health maintenance activities" means
12 activities:

13 (a) That enable a minor child or adult to live
14 in his or her home; and

15 (b) Are beyond activities of daily living
16 that:

17 (1) The minor child or adult is unable
18 to perform for himself or herself; and

19 (2) The attending physician, advanced
20 practice nurse, or registered nurse determines can be safely performed in the
21 minor child's or adult's home by a designated care aide under the direction
22 of a competent adult or caretaker.

23 (C) For purposes of this section, "home" does not include:

24 (i) A nursing home;

25 (ii) An assisted living facility;

26 (iii) A residential care facility;

27 (iv) An intermediate care facility; or

28 (v) A hospice care facility.

29 (D) The Arkansas State Board of Nursing with the input of
30 the Governor's Home Health Care Service Agency Advisory Council, the Arkansas
31 Health Care Association, and the Arkansas Residential Assisted Living
32 Association shall promulgate rules specifying which health maintenance
33 activities are not exempted under this subdivision (11) and the minimal
34 qualifications required of the designated care aide.

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36 /s/ S. Prater

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APPROVED: 3/31/2005