

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

# **A Bill**

**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."

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## **Subtitle**

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:

23 "17-80-106.

24 (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.*

30 (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

1 the Arkansas State Podiatry Examining Board.

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

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

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

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

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

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

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

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

1 serve said subpoena and collect said records.

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

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

10           (1) travel expenses at the level for state employees; and

11           (2) other out-of-pocket costs, incurred by the division in  
12 carrying out its investigative task from the individual board utilizing the  
13 services delineated herein."

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

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

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

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

1 being necessary for the immediate preservation of the public peace, health and  
2 safety shall be in full force and effect from and after its passage and  
3 approval.

4                                   */s/ Senators Bookout and Gwatney*

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