

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

HOUSE BILL 1978

4
5 By: Representative Perry

For An Act To Be Entitled

8 AN ACT TO AMEND THE STATUTES CONCERNING PROCURERS; TO
9 REGULATE THE USE OF A PROCURER BY A LICENSED
10 CHIROPRACTIC PHYSICIAN; AND FOR OTHER PURPOSES.

Subtitle

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14 TO AMEND THE STATUTES CONCERNING
15 PROCURERS; AND TO REGULATE THE USE OF A
16 PROCURER BY A LICENSED CHIROPRACTIC
17 PHYSICIAN.

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

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22 SECTION 1. Arkansas Code § 5-37-506(a)(1), concerning prohibited
23 activities by a procurer or provider, is amended to add additional
24 subdivisions to read as follows:

25 (C) States, implies, or otherwise communicates that:

26 (i) He or she has an affiliation with an insurance
27 company;

28 (ii) Payment of an insurance claim or insurance
29 coverage shall be available or otherwise affected by the individual's
30 willingness to see a specific provider;

31 (iii) The Attorney General's office, the Arkansas
32 State Board of Chiropractic Examiners, or any other regulatory or
33 governmental agency has approved or is otherwise affiliated with the
34 procurer; or

35 (iv) A specific medical facility is a preferred
36 medical clinic or in-network provider for any purpose;



1 (D) Offers or gives anything of value or promises payment
 2 or a gift of any kind in connection with a solicitation contact;

3 (E) Uses a false name or identity during a solicitation;

4 (F) Provides or promises to provide a prescription or
 5 nonprescription medication or medical supplies, unless he or she is
 6 authorized to prescribe and treat as a licensed healthcare provider under
 7 state law;

8 (G) Attempts to solicit using a telephone number that is
 9 not registered with the board; or

10 (H) Makes any other statement that is deceptive or
 11 misleading within the context of a solicitation.

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 13 SECTION 2. Arkansas Code § 17-81-105(b)(2), concerning the prosecution
 14 of violations, is amended to read as follows:

15 (2) Upon a finding that a ~~chiropractic~~ physician has violated
 16 this subchapter, § 5-37-505, or § 5-37-506, the board may order:

17 (A) Sanctions;

18 (B) A license suspension; or

19 (C) A license revocation.

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 21 SECTION 3. Arkansas Code § 17-81-106 is amended to read as follows:

22 17-81-106. Health and police regulations applicable.

23 ~~Chiropractic practitioners~~ Physicians licensed under this chapter shall
 24 be bound by all applicable health and police regulations of the state. They
 25 shall be qualified to sign death certificates, insurance certificates, and
 26 all other certificates pertaining to public health with like effect as other
 27 licensed physicians.

28
 29 SECTION 4. Arkansas Code § 17-81-107(a)(1)(A), concerning the
 30 definition of procurer, is amended to read as follows:

31 (1)(A) “Procurer” means a person or entity who for pecuniary
 32 benefit procures or attempts to procure a client, patient, or customer by
 33 directly contacting the client, patient, or customer in person, by telephone,
 34 or by electronic means at the direction of, request of, employment of, or in
 35 cooperation with a ~~chiropractic~~ physician.

1 SECTION 5. Arkansas Code § 17-81-107(b), concerning use of a procurer
 2 by a physician, is amended to read as follows:

3 (b)(1) A ~~chiropractic~~ physician who uses a procurer is required to:
 4 ~~(1)(A)~~ Have a written contract with the procurer or
 5 procurement company with whom the ~~chiropractic~~ physician engages; and
 6 ~~(2)(B)~~ Register the name of any procurer with whom the
 7 ~~chiropractic~~ physician contracts with the Arkansas State Board of
 8 Chiropractic Examiners.

9 (2) In order to register a procurer, a physician shall file with
 10 the board the following information on a form approved by the board:

11 (A) The full legal name of the procurer with whom the
 12 physician has a current contract with and engages;

13 (B) A valid state-issued photo identification or driver's
 14 license, or both;

15 (C) The permanent home address of the procurer;

16 (D) The telephone number that the procurer shall use to
 17 make telephone calls to potential patients; and

18 (E) The name of the physician engaging the procurer,
 19 including address and telephone number of the physician.

20 (3)(A) The procurer registration expires on December 31 of each
 21 year.

22 (B) If a physician engages a procurer, a physician shall
 23 register a procurer annually.

24 (4) The physician shall provide the board with updated procurer
 25 registration information, should any of the information required under
 26 subdivision (b)(2) of this section change during the year.

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 28 SECTION 6. Arkansas Code § 17-81-107, concerning the use of a procurer
 29 by a chiropractic physician, is amended to add additional subsections to read
 30 as follows:

31 (c) A violation of this section shall result in the following:

32 (1) Any payments paid by, or on behalf of, an individual named
 33 in a motor vehicle accident report for medical services provided by the
 34 physician to the individual named in a motor vehicle accident report shall be
 35 returned to the individual, insurance company, or other payor; and

36 (2) The prohibition of a physician from attempting to collect

1 fees for medical services from an individual named in a motor vehicle
2 accident report.

3 (d) A procurer operating in this state shall:

4 (1) Develop a telephone solicitation training program for all
5 employees or authorized representatives of the procurer;

6 (2) Develop and maintain a solicitation script for use by all
7 employees and authorized representatives of the procurer;

8 (3)(A) Make and keep accounts, correspondence, memoranda,
9 papers, books, and other records for a period of at least five (5) years.

10 (B) The records described in subdivision (d)(3)(A) of this
11 section include:

12 (i) The names and telephone numbers of individuals
13 solicited;

14 (ii) The name of the physician with whom the
15 procurer has contracted as required under subsection (b) of this section;

16 (iii) If solicitation contact with an individual is
17 initiated due to a motor vehicle accident, the date and time of the motor
18 vehicle accident;

19 (iv) The amount of compensation paid to a procurer
20 for the solicitation with each actual or potential patient, customer, or
21 client; and

22 (v) Any moneys shared by the procurer with other
23 persons for conducting work as a procurer;

24 (4) Maintain a log of all training programs required under
25 subdivision (d)(1) of this section that are provided to a procurer and the
26 employees or authorized representatives of the procurer that includes:

27 (A) The curriculum of any training program;

28 (B) The dates upon which any training program is provided;

29 and

30 (C) The signature of each individual participating in the
31 training program and acknowledgment that he or she has completed the training
32 program and agrees to perform the work of solicitation according to the
33 training program; and

34 (5) Maintain all solicitations, advertisements, and advertising
35 materials used by the procurer in soliciting the services of a physician.

36 (e) It is unlawful for a procurer to transact business in this state

1 if the procurer has not met the contract and registration requirements under
2 subsection (b) of this section.

3 (f) The board may adopt rules to implement this section.

4 (g)(1) A physician convicted of a Class D felony under § 5-37-505 or §
5 5-37-506 is subject to mandatory license revocation.

6 (2) A procurer convicted of a Class D felony under § 5-37-505 or
7 § 5-37-506 is disqualified from transacting business in this state as a
8 procurer under this subchapter.

9 (h) A violation of this section is a deceptive and unconscionable
10 trade practice under § 4-88-107 and is subject to the penalties, remedies,
11 and enforcement provisions under § 4-88-101 et seq.

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