

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.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H2/9/01

A Bill

Act 455 of 2001
HOUSE BILL 1564

5 By: Representative T. Steele
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE 17-80-106 TO PERMIT THE
10 ARKANSAS STATE BOARD OF OPTOMETRY TO UTILIZE AS THEIR
11 INVESTIGATORS THE DIVISION OF PHARMACY SERVICES AND
12 DRUG CONTROL OF THE DEPARTMENT OF HEALTH; AND FOR
13 OTHER PURPOSES.
14

Subtitle

15 TO PERMIT THE STATE BOARD OF OPTOMETRY
16 TO UTILIZE AS THEIR INVESTIGATORS THE
17 DIVISION OF PHARMACY SERVICES AND DRUG
18 CONTROL OF THE DEPARTMENT OF HEALTH.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code 17-80-106 is amended to read as follows:
25 17-80-106. Investigations and inspections of alleged wrongdoing.

26 (a) The Arkansas State Medical Board, the Arkansas State Board of
27 Dental Examiners, the Arkansas State Board of Nursing, the Veterinary Medical
28 Examining Board, ~~and~~ the Arkansas Board of Podiatric Medicine, and the
29 Arkansas State Board of Optometry are authorized to utilize as their
30 employees, as the investigators for the purposes described in this section,
31 the investigators and inspectors of the Division of Pharmacy Services and Drug
32 Control of the Department of Health.

33 (b) The Department of Health is directed to make investigators and
34 inspectors of the division available for those purposes and for as long as
35 they may conduct investigations and inspections of alleged wrongdoing of those
36 individuals licensed or permitted by the Arkansas State Medical Board, the

1 Arkansas State Board of Dental Examiners, the Arkansas State Board of Nursing,
2 the Veterinary Medical Examining Board, ~~and~~ the Arkansas Board of Podiatric
3 Medicine, and the Arkansas State Board of Optometry.

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

13 (1) Violated the laws of the State of Arkansas or of the United
14 States respecting the prescribing, administering, and use of narcotics and
15 potentially dangerous drugs;

16 (2) Practiced their profession in such a way as to endanger the
17 general health and welfare of the public; or

18 (3) Otherwise violated the practice act or rules and regulations
19 of that respective board.

20 (d) Copies of records, prescriptions, or orders shall not become public
21 records by reason of their use in disciplinary proceedings held by the
22 licensing board, nor shall the patients' or licensed medical professionals'
23 property rights to the prescriptions, orders, or records be extinguished by
24 that use.

25 (e)(1) The investigators may obtain copies of prescriptions, orders,
26 and records as admissible evidence without the necessity of the issuance of an
27 administrative inspection warrant or search warrant as authorized by § 5-64-
28 502.

29 (2) Investigators must have in their possession, however, an
30 authorization by the division.

31 (3) The licensee may refuse the request of the investigator and
32 not tender copies of the records.

33 (4)(A) If prescriptions, orders, or records are to be used in
34 criminal proceedings, they shall be obtained by investigators only on an
35 administrative inspection warrant.

36 (B) No inspection warrant is necessary where prescriptions,

1 orders, or records are to be used solely for board disciplinary purposes.

2 (f) Each of the boards will have the power, in lieu of a letter of
3 authority, to issue to the investigators a subpoena to obtain copies of the
4 records referred to herein, and the investigators will have the authority to
5 serve the subpoena and collect the records.

6 (g) In the event that a witness served with a subpoena fails to honor
7 the subpoena, then the particular board issuing the subpoena may apply to the
8 circuit court for remedies as provided in the Arkansas Rules of Civil
9 Procedure. The court shall have the power to punish the disobedient witness
10 for contempt as is now provided by law in the trial of civil cases.

11 (h)(1) The division shall have the authority to collect from the
12 individual board utilizing the services delineated herein up to thirty-five
13 dollars (\$35.00) per hour with a maximum of two thousand dollars (\$2,000) in
14 hourly costs per case.

15 (2) The division shall also have the authority to collect from
16 the individual board utilizing the services delineated herein for:

17 (A) Travel expenses at the level for state employees; and

18 (B) Other out-of-pocket costs incurred by the division in
19 carrying out its investigative task.

20 (i) The Arkansas State Medical Board, the Arkansas State Board of
21 Dental Examiners, the Arkansas State Board of Nursing, the Veterinary Medical
22 Examining Board, ~~and~~ the Arkansas Board of Podiatric Medicine, and the
23 Arkansas State Board of Optometry are authorized to collect costs incurred
24 under subsection (h) of this section from the licensees being investigated by
25 the division.

26 (j) All funds collected under subsection (h) of this section are
27 declared to be special revenue and shall be deposited in the State Treasury
28 and credited to the Public Health Fund to be used exclusively by the division
29 for investigations conducted under this section.

30 (k) Subject to rules and regulations as may be implemented by the Chief
31 Fiscal Officer of the State, the disbursing officer for the Department of
32 Health is authorized to transfer all unexpended funds collected under this
33 section as certified by the Chief Fiscal Officer of the State to be carried
34 forward and made available for expenditures for the same purpose for any
35 following fiscal year.

36 /s/ T. **Steel**

APPROVED: 2/27/2001e