

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 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/14/03 S3/25/03

A Bill

Act 1076 of 2003
HOUSE BILL 2307

5 By: Representative Bledsoe
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 17-80-106 TO
10 ALLOW THE DIVISION OF PHARMACY SERVICES AND DRUG
11 CONTROL OF THE DEPARTMENT OF HEALTH TO CONDUCT
12 INVESTIGATIONS AND INSPECTIONS OF ALLEGED
13 WRONGDOING OF THOSE INDIVIDUALS LICENSED BY THE
14 ARKANSAS STATE BOARD OF PHYSICAL THERAPY; TO
15 *INCREASE* THE MAXIMUM AMOUNT THAT CAN BE CHARGED
16 BY THE DIVISION OF PHARMACY SERVICES FOR ITS
17 INVESTIGATIONS; AND FOR OTHER PURPOSES.

Subtitle

19 TO AUTHORIZE THE DEPARTMENT OF HEALTH TO
20 INVESTIGATE LICENSED PHYSICAL
21 THERAPISTS.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. Arkansas Code § 17-80-106 is amended to read as follows:
28 17-80-106. Investigations and inspections of alleged wrongdoing.

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

36 (b) The Department of Health is directed to make investigators and



1 inspectors of the division available for those purposes and for as long as
2 they may conduct investigations and inspections of alleged wrongdoing of
3 those individuals licensed or permitted by the Arkansas State Medical Board,
4 the Arkansas State Board of Dental Examiners, the Arkansas State Board of
5 Nursing, the Veterinary Medical Examining Board, the Arkansas Board of
6 Podiatric Medicine, ~~and~~ the State Board of Optometry, and the Arkansas State
7 Board of Physical Therapy.

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

17 (1) Violated the laws of the State of Arkansas or of the United
18 States respecting the prescribing, administering, and use of narcotics and
19 potentially dangerous drugs;

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

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

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

29 (e)(1) The investigators may obtain copies of prescriptions, orders,
30 and records as admissible evidence without the necessity of the issuance of
31 an administrative inspection warrant or search warrant as authorized by § 5-
32 64-502.

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

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

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

4 (B) No inspection warrant is necessary where
5 prescriptions, orders, or records are to be used solely for board
6 disciplinary purposes.

7 (f) Each of the boards will have the power, in lieu of a letter of
8 authority, to issue to the investigators a subpoena to obtain copies of the
9 records referred to herein, and the investigators will have the authority to
10 serve the subpoena and collect the records.

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

16 (h)(1) The division shall have the authority to collect from the
17 individual board utilizing the services delineated herein up to thirty-five
18 *dollars (\$35.00) per hour with a maximum of ~~two thousand dollars (\$2,000)~~*
19 *four thousand dollars (\$4,000) in hourly costs per case.*

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

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

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

25 (i) The Arkansas State Medical Board, the Arkansas State Board of
26 Dental Examiners, the Arkansas State Board of Nursing, the Veterinary Medical
27 Examining Board, the Arkansas Board of Podiatric Medicine, ~~and~~ the State
28 Board of Optometry, and the Arkansas State Board of Physical Therapy are
29 authorized to collect costs incurred under subsection (h) of this section
30 from the licensees being investigated by the division.

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

35 (k) Subject to rules and regulations as may be implemented by the
36 Chief Fiscal Officer of the State, the disbursing officer for the Department

1 of Health is authorized to transfer all unexpended funds collected under this
2 section as certified by the Chief Fiscal Officer of the State to be carried
3 forward and made available for expenditures for the same purpose for any
4 following fiscal year.

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/s/ Bledsoe

APPROVED: 4/3/2003