

MARKUP

Act 589 – To Regulate the Use of a Procurer by a Licensed Chiropractic Physician

Ark. Admin. Code 007.33.8-2 (Formerly cited as AR ADC 029.00.2)

PART 2. RULES

D. ADVERTISING BY CHIROPRACTIC PHYSICIANS. Advertising by chiropractic physicians should be dignified, ethical and professional, not necessarily limited to, but preferably of an educational or informative nature or as a statement of basic fees. Chiropractic physicians have the sole responsibility over the employees or agents hired, including those hired for advertising/marketing purposes.

9. Telephone communication including advertising/marketing. Any agent, procurer, contractor, or employee communicating with a prospective patient on behalf of a chiropractic physician shall disclose how the agent, procurer, contractor, or employee obtained the prospective patient's information. The agent, procurer, contractor, or employee must communicate his or her legal name and the name of the particular chiropractic physician on whose behalf the communication is being made, that he or she is an agent, procurer, contractor, or employee of the particular chiropractic physician. Unless such communication of the agent, procurer, contractor, or employee is true and evidence of the same is on file with the Board, the agent, procurer, contractor, or employee shall not state that he or she practices or is employed as attorney, insurance adjuster, chiropractor, and is not employed in the fields of law, health care, law enforcement, private investigation, or insurance.

(a) When direct in-person solicitation is made by an agent, procurer, contractor, or employee of the chiropractor, in addition to the requirements set forth in paragraph 9, the agent, procurer, contractor, or employee shall show the person being solicited a photo ID with their legal name and the name of the chiropractic physician on whose behalf the solicitation is being made, and shall dispense a professional card bearing his or her legal name, and the name, address, and telephone number of the licensed chiropractic physician on whose behalf the solicitation is being made. Such professional card shall be provided to the person being solicited at the beginning of the encounter, and shall be left with the person regardless of whether the person being solicited accepts the solicitation request.

(b) The licensee employing an agent, procurer, contractor, or employee for purposes of soliciting new patients shall file, in a format approved by the board, a registration form that includes the procurer's full legal name, permanent home address, and business and/or personal telephone number solely used for client communication purposes, and a copy of the procurer's driver's license or state issued photo ID, and a copy of their written contract before the procurer acts on the chiropractor's behalf. Each procurer registration shall terminate on December 31. The chiropractic physician shall register each procurer annually. The chiropractor is required to provide the board with updated procurer registration information, should any of it change during the year. All registered phone numbers and pictures of the procurers will be made public on the board's website to be as transparent as possible. The chiropractic physician is responsible to the Board for the content of the contact, including prohibited statements made or required statements not made, as well as for any action that is foreseeable in a telephone or in-person encounter.

(1) Telephone solicitation/marketing of victims of accidental injury and which are conducted on behalf of chiropractic physicians shall be made in substantial conformance to a written script which is considered by the Board to have been specifically approved by the chiropractic physician. The chiropractic physician shall be required to maintain such scripts for a period of two (2) years following their utilization. Scripts are to be made available for review upon request by this Board or its designee.

(2) Agents, procurers, contractors, or employees of chiropractic physicians who solicit

RECEIVED

JAN 25 2022

BUREAU OF
LEGISLATIVE
RESEARCH

Act 589 – To Regulate the Use of a Procurer by a Licensed Chiropractic Physician

Ark. Admin. Code 007.33.8-2 (Formerly cited as AR ADC 029.00.2)

PART 2. RULES

victims of accidental injury shall keep a log of all solicitation calls made, including at minimum the name and phone number of the person being solicited, the date and time of the phone call. These logs shall be kept for a period of + 5 years.

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1573

5 By: Representatives M. Gray, Perry
6 By: Senator D. Wallace
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE STATUTES CONCERNING PROCURERS; TO
10 REGULATE THE USE OF A PROCURER BY A LICENSED
11 CHIROPRACTIC PHYSICIAN; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND THE STATUTES CONCERNING
16 PROCURERS; AND TO REGULATE THE USE OF A
17 PROCURER BY A LICENSED CHIROPRACTIC
18 PHYSICIAN.
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

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

26 (C) States, implies, or otherwise communicates to another
27 person that:

28 (i) The person has an affiliation with an insurance
29 company;

30 (ii) Payment of an insurance claim or insurance
31 coverage is available or otherwise affected by the other person's willingness
32 to see a specific provider;

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



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

3 (D) Offers or gives anything of value or promises payment
 4 or a gift of any kind in connection with a solicitation contact with another
 5 person;

6 (E) Uses a false name or identity during a solicitation of
 7 another person;

8 (F) Provides or promises to provide to another person a
 9 prescription or nonprescription medication or medical supplies, unless the
 10 person is authorized to prescribe and treat as a licensed healthcare provider
 11 under state law;

12 (G) Attempts to solicit another person using a telephone
 13 number that is not registered with the board; or

14 (H) Makes any other statement to another person that is
 15 deceptive or misleading within the context of a solicitation.

16
 17 SECTION 2. Arkansas Code § 17-81-106 is amended to read as follows:

18 17-81-106. Health and police rules applicable.

19 Chiropractic ~~practitioners~~ physicians licensed under this chapter shall
 20 be:

21 ~~(1) bound~~ Bound by all applicable health and police rules of the
 22 state; and

23 ~~(2) They shall be qualified~~ Qualified to sign death
 24 certificates, insurance certificates, and all other certificates pertaining
 25 to public health with like effect as other licensed physicians.

26
 27 SECTION 3. Arkansas Code § 17-81-107(b), concerning the use of a
 28 procurer by a physician, is amended to read as follows:

29 (b)(1) A chiropractic physician who uses a procurer is required to:

30 ~~(1)(A)~~ Have a written contract with the procurer or
 31 procurement company with whom the chiropractic physician engages; and

32 ~~(2)(B)~~ Register the name of any procurer with whom the
 33 chiropractic physician contracts with the Arkansas State Board of
 34 Chiropractic Examiners.

35 (2) A chiropractic physician shall register a procurer with the
 36 board by filing the following information with the board on a form approved

1 by the board:

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

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

6 (C) The procurer's permanent home address;

7 (D) The procurer's business telephone number solely used
 8 for client communication purposes; and

9 (E) The name, telephone number, and address of the
 10 chiropractic physician engaging the procurer.

11 (3) The chiropractic physician shall provide the board with
 12 updated procurer registration information, should any of the information
 13 required under subdivision (b)(2) of this section change during the year.

14 (4)(A) The procurer registration expires on December 31 of each
 15 year.

16 (B) If a chiropractic physician engages a procurer, the
 17 chiropractic physician shall register the procurer annually.

18
 19 SECTION 4. Arkansas Code § 17-81-107, concerning the use of a procurer
 20 by a chiropractic physician, is amended to add additional subsections to read
 21 as follows:

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

23 (1) Any payments paid by, or on behalf of, an individual named
 24 in a motor vehicle accident report for medical services provided by the
 25 chiropractic physician to the individual named in a motor vehicle accident
 26 report shall be returned to the individual, insurance company, or other
 27 payor; and

28 (2) The prohibition of a chiropractic physician from attempting
 29 to collect fees for medical services from an individual named in a motor
 30 vehicle accident report.

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

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

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

36 (3)(A) Make and keep accounts, correspondence, memoranda,

1 papers, books, and other records for a period of at least five (5) years.

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

4 (i) The names and telephone numbers of individuals
5 solicited;

6 (ii) The name of the chiropractic physician with
7 whom the procurer has contracted as required under subsection (b) of this
8 section;

9 (iii) If solicitation with an individual is
10 initiated due to a motor vehicle accident, then the date and time of the
11 motor vehicle accident;

12 (iv) The amount of compensation paid to a procurer
13 for the solicitation of each actual or potential patient, customer, or
14 client; and

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

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

20 (A) The curriculum of any training program;

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

22 and

23 (C) The signature of each individual participating in the
24 training program and acknowledgment that he or she has completed the training
25 program and agrees to perform the work of solicitation according to the
26 training program; and

27 (5) Maintain all solicitations, advertisements, and advertising
28 materials used by the procurer in soliciting clients for the services of a
29 chiropractic physician.

30 (e) It is unlawful for a procurer to transact business in this state
31 if the procurer has not met the contract and registration requirements under
32 subsection (b) of this section.

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

34 (g)(1) A chiropractic physician convicted of a Class D felony under §
35 5-37-505 or § 5-37-506 is subject to mandatory license revocation.

36 (2) A procurer convicted of a Class D felony under § 5-37-505 or

1 § 5-37-506 is disqualified from transacting business in this state as a
2 procurer under this subchapter.

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

6
7
8 **APPROVED: 4/6/21**
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36