

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1114

By: Representative Matthews

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE OF 1987, TITLE 26, CHAPTER 52, SUBCHAPTER FOUR AND TITLE 17, CHAPTER 82, SUBCHAPTER ONE TO EXEMPT FROM THE STATE SALES AND USE TAX THE PROCEEDS DERIVED FROM THE SALE, PURCHASE OR USE OF PRESCRIPTION DRUGS BY DISPENSING DENTISTS WHEN SOLD, PURCHASED OR ADMINISTERED FOR HUMAN USE; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 26-52-406(a) is hereby amended to read as follows:

"(a) The gross receipts or gross proceeds derived from the sale, purchase or use of prescription drugs by a licensed pharmacist, hospitals, dispensing physicians registered under the provisions of §17-93-102, oncologists, or dispensing dentists registered under the provisions of §17-82-110 when sold, purchased or administered for human use, and from the sale of oxygen sold for human use on prescription of a licensed physician shall be exempt from the Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act, §26-52-101 et seq., and the Arkansas compensating use tax levied by the Arkansas Compensating Use Tax, §26-53-101 et seq."

SECTION 2. Title 17, Chapter 82, Subchapter 1 of the Arkansas Code of 1987 is hereby amended by adding a new section to read as follows:

"17-82-110. Legend drugs. (a) A dispensing dentist is a dentist licensed under the Arkansas Dental Practice Act, §17-82-101 et seq., who purchases legend drugs to be dispensed to his or her patients for the patients' personal use and administration outside the dentist's office.

(b) This section shall not apply to dentists who only dispense drugs in injectable form unless they are controlled substances, in which case the

section shall fully apply.

(c) The dispensing dentist shall:

(1) Personally dispense legend drugs and the dispensing of such drugs may not be delegated;

(2) Keep records of all receipts and distributions of legend drugs. The records shall be subject to inspection by the proper enforcement authority and shall be readily accessible for inspection and maintained in a central registry;

(3) Label legend drugs with the following information: patient's name and address; prescribing dentist's address and narcotic registry number issued by the Drug Enforcement Administration of the United States Department of Justice; date of dispensing; directions and cautionary statements, if any, as required by law.

(d) No dentist licensed under the Arkansas Dental Practice Act, §17-82-101 et seq., shall dispense legend drugs without prior approval by the Arkansas State Medical Board after application to the board and on the showing of need.

(e) The Arkansas State Medical Board shall enforce the provisions of this section and is authorized and directed to adopt regulations to carry out its purpose."

SECTION 3. Arkansas Code 17-93-301 is hereby amended to read as follows:

"17-93-301. (a) There is created the Arkansas State Medical Board.

(b) The board shall consist of thirteen (13) members appointed by the Governor for terms of eight (8) years.

(1) Nine (9) members shall be duly qualified, licensed, and active medical practitioners and appointed upon the advice and recommendation of the Arkansas Medical Society. One (1) member shall be appointed from each of the six (6) congressional districts established by Acts 1951, No. 297 repealed. One (1) member shall be appointed at large. One (1) member shall be appointed upon the advice and recommendation of the Arkansas State Medical Board as the Secretary of the Arkansas State Medical Board.

(2) One (1) member shall be a licensed practicing physician in this state and shall be appointed upon the advice and recommendation of the Physicians' Section of the Arkansas Medical, Dental, and Pharmaceutical Association.

(3) Two (2) members of the board shall not be actively engaged in or retired from the practice of medicine. One (1) member shall represent consumers, and one (1) member shall be sixty (60) years of age or older and shall represent the elderly. Both shall be appointed from the state at large subject to confirmation by the Senate. The two (2) positions may not be held by the same person. Both shall be full voting members but shall not participate in the grading of examinations.

(4) One (1) member shall be a licensed practicing dentist in this state and shall be appointed upon the advice and recommendation of the State Dental Association. The dentist member shall only participate in the board's review of applications for license to prescribe drugs and for that purpose only shall be a voting member of the board.

(c) (1) The term of each member shall expire on December 31 of the year designated, and a successor appointee shall be named by the Governor on or before the expiration date of the term so expiring.

(2) The secretary shall serve and act at the will of the board and may be relieved of office at any time; in which event, his term shall automatically expire as of the time of his being so relieved of office by the board, or otherwise.

(d) (1) Vacancies on the board occurring otherwise than as provided in this section shall be filled by appointment by the Governor within thirty (30) days thereafter.

(2) In the event a vacancy exists in the member position of licensed practicing physician appointed upon the advice and recommendation of the Physicians' Section of the Arkansas Medical, Dental, and Pharmaceutical Association due to death, resignation, or other cause, a successor member to the position shall be appointed by the Governor for the remainder of the unexpired portion of the term thereof in the same manner as provided in this section for the initial appointment.

(e) The members of the board shall take the oath prescribed by the Constitution for state officers before entering upon the discharge of their duties.

(f) (1) The members of the board shall receive as compensation for their services the sum of one hundred dollars (\$100) per day and expenses for regular board meetings and one hundred dollars (\$100) per day and expenses for called meetings.

(2) The secretary of the board shall receive such additional salary as may be fixed by the board."

SECTION 4. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 6. Emergency. It is hereby found and determined by the General Assembly that prescription drugs sold and administered by dentists are now subject to the sales and use taxes; that granting an exemption in such circumstances will to a degree reduce the tremendous financial burden patients must bear for their treatment; that this Act provides that degree of assistance and that this Act should go into effect immediately in order to help patients as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.