

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4 By: Representative Wren

A Bill

HOUSE BILL 1953

For An Act To Be Entitled

"AN ACT TO AMEND VARIOUS SECTIONS OF CHAPTERS 27, 46, 95,
AND 97 OF TITLE 17, OF THE ARKANSAS CODE OF 1987,
ANNOTATED, CONCERNING THE LICENSING OF COUNSELORS, SOCIAL
WORKERS, PSYCHIATRISTS, AND PSYCHOLOGISTS AND
PSYCHOLOGICAL EXAMINERS TO PRESCRIBE GROUNDS FOR THE
REVOCATION OR SUSPENSION OF THEIR PROFESSIONAL LICENSES
FOR FALSE NOTIFICATION OF CHILD ABUSE OR THE FAILURE TO
REPORT CHILD ABUSE; AND FOR OTHER PURPOSES."

Subtitle

"TO AMEND THE LICENSING LAWS FOR
COUNSELORS, SOCIAL WORKERS,
PSYCHIATRISTS, AND PSYCHOLOGISTS FOR
FALSE OR FAILED REPORTS OF CHILD ABUSE."

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

SECTION 1. Arkansas Code § 17-27-306, regarding licensed counselors, is amended to read as follows:

"17-27-306. Suspension or revocation.

(a) The board shall have the power to suspend or revoke the license of any person ~~found guilty of violating any ethical or professional standard.~~ for the following causes or reasons:

(1) Violating any ethical or professional standard as defined by the rules established by the board;

(2) Violating any provision of this chapter;

(3) Engaging in gross negligence or willful negligence in the practice of counseling; or

(4) Willfully making a false notification of child abuse or

1 maltreatment, knowingly making false allegations of child abuse or
 2 maltreatment to law enforcement authorities, or negligently or willfully
 3 failing to make notifications of child abuse or maltreatment when required by
 4 law.

5 (b) The sanction of suspension upon order of the board shall not be for
 6 a period greater than six (6) months. Any licensee thereby sanctioned shall
 7 not be allowed to practice counseling in this state until the termination of
 8 the suspension period and subsequent timely review by the board.

9 (c) Every final ruling or determination by the board regarding a
 10 complaint against a licensee, regardless of whether it was well founded or
 11 not, shall be made by a final order in writing and stated in the records of
 12 the board and shall be subject to judicial review in the same manner as other
 13 rulings and orders of the board under the Arkansas Administrative Procedure
 14 Act, Arkansas Code §§ 25-15-201 et seq."

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16 SECTION 2. Arkansas Code § 17-46-305, regarding licensed social
 17 workers, is amended to read as follows:

18 "17-46-305. Renewal, revocation, suspension - Disciplinary proceedings.

19 (a) The board may refuse to issue or renew a license or may revoke or
 20 suspend a license issued under this chapter for any of the following causes or
 21 reasons:

- 22 (1) Violation of a provision of this chapter;
- 23 (2) Gross negligence in the practice of social work;
- 24 (3) Engaging in a course of unprofessional conduct as defined by
 25 the rules established by the board or violation of the code of ethics made and
 26 published by the board;
- 27 (4) Conviction in this or any other state of any crime that is a
 28 felony in this state; ~~or~~
- 29 (5) Has been convicted of a felony in a federal court; or
- 30 (6) Willfully making a false notification of child abuse or

31 maltreatment, knowingly making false allegations of child abuse or
 32 maltreatment to law enforcement authorities, or negligently or willfully
 33 failing to make notifications of child abuse or maltreatment when required by
 34 law.

35 (b) Hearings shall be conducted by the board. Decisions will be
 36 determined by a majority vote of the board. Every final ruling or

1 determination by the board regarding a complaint against a licensee,
 2 regardless of whether it was well founded or not, shall be made by a final
 3 order in writing and stated in the records of the board. All proceedings will
 4 be conducted in accordance with the Arkansas Administrative Procedure Act, as
 5 amended, § 25-15-201 et seq."

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7 SECTION 3. Arkansas Code § 17-95-409, regarding licensed physicians,
 8 including psychiatrists, is amended to read as follows:

9 "17-95-409. Denial, suspension, or revocation - Grounds.

10 (a)(1) The board may revoke an existing license, suspend an existing
 11 license, or refuse to issue a license in the event the holder or applicant, as
 12 the case may be, has committed any of the acts or offenses defined in this
 13 section to be unprofessional conduct.

14 (2) The words unprofessional conduct, as used in subchapters 2-4
 15 of this chapter, are declared to mean:

16 (A)(i) Conviction of any crime involving moral turpitude or
 17 conviction of a felony.

18 (ii) The judgment of any such conviction, unless
 19 pending upon appeal, shall be conclusive evidence of unprofessional conduct;

20 (B) Resorting to fraud, misrepresentation, or deception in
 21 applying for or securing a license to practice medicine or in taking the
 22 examination for the license;

23 (C) Aiding or abetting an unlicensed person to practice
 24 medicine;

25 (D) Procuring or aiding or abetting in procuring a wrongful
 26 and criminal abortion;

27 (E) Violation of the laws of the United States or the State
 28 of Arkansas regulating the possession, distribution, or use of narcotic or
 29 controlled drugs classed in Schedules 1-5 of the Controlled Substances Act of
 30 1970 or the Uniform Controlled Substances Act, § 5-64-101 et seq., including
 31 any amendments thereto;

32 (F) Habitual indulgence in the use of alcohol to such an
 33 extent as to render himself incapable of exercising that degree of skill and
 34 judgment in the treatment of his patients which the moral trust and confidence
 35 in him demands;

36 (G) Grossly negligent or ignorant malpractice;

1 (H) Habitual, intemperate, or excessive use of narcotics or
2 of any other habit-forming drugs;

3 (I) Representing to a patient that a manifestly incurable
4 condition of sickness, disease, or injury can be permanently cured;

5 (J) Becoming physically or mentally incompetent to practice
6 medicine to such an extent as to endanger the public;

7 (K) Insanity or mental disease, if evidenced by an
8 adjudication or by voluntary commitment to an institution for treatment of a
9 mental disease or as determined by an examination conducted by three (3)
10 impartial psychiatrists retained by the board;

11 (L)(i) Soliciting for patronage;

12 (ii) Advertising for patronage in a false,
13 fraudulent, deceptive, or misleading manner;

14 (iii) Advertising the quality of medical services; or

15 (iv) Advertising illegal procedures and practices;

16 (M) Offering, undertaking, attempting, or agreeing to cure
17 or treat disease by a secret method, procedure, treatment, or medicine, or
18 representing, directly or indirectly, that he can treat, operate on, or
19 prescribe for any human condition by a method, means, or procedure which he
20 refuses to divulge upon demand to the Arkansas State Medical Board;

21 (N) The willful betraying of a professional secret; ~~and~~

22 (O) Persistent and flagrant overcharging or overtreatment of
23 patients; and

24 (P) The willful making of a false notification of child
25 abuse or maltreatment, to knowingly make false allegations of child abuse or
26 maltreatment to law enforcement authorities, or to negligently or willfully
27 fail to make notifications of child abuse or maltreatment when required by
28 law.

29 (b)(1)(A) The board shall suspend an existing license in the event the
30 holder breached a contract to practice medicine in a rural community that was
31 entered into under the provisions of § 6-81-701 et seq.

32 (B) The suspension shall be for a period of years
33 equivalent to the number of years that the recipient is obligated to practice
34 medicine in a rural area, and the suspension shall continue until the loan,
35 with interest thereon, is paid in full.

36 (2) Upon notification from the Dean of the College of Medicine of

1 the University of Arkansas for Medical Sciences and the Director of the Health
 2 Department that exigent circumstances warrant a waiver of the suspension, the
 3 board shall reinstate the holder's license."

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5 SECTION 4. Arkansas Code § 17-97-310, regarding the licensing of
 6 psychologist and psychological examiners, is amended to read as follows:

7 "17-97-310. Denial, suspension, or revocation - Grounds - Reinstatement.

8 (a) The Arkansas Board of Examiners in Psychology may refuse to grant a
 9 certificate or may recommend suspension of any license for a period to be
 10 determined by the board, on the following grounds:

11 (1) The employment of fraud or deception in applying for a
 12 license or in passing the examination provided for in this chapter;

13 (2) Conviction of felony;

14 (3) The practice of psychology under a false or assumed name or
 15 the impersonation of another practitioner of a like or different name;

16 (4) Habitual intemperance in the use of ardent spirits,
 17 narcotics, or stimulants to such an extent as to incapacitate the licensee or
 18 applicant for the performance of his duties;

19 (5) Violation of the Arkansas Medical Practices Act, § 17-95-201
 20 et seq.;

21 (6) Practice of a level of psychology inappropriate to the
 22 particular license held by the licentiate;

23 (7) Upon recommendation of the ethics committee of the Arkansas
 24 Psychological Association or of the American Psychological Association; ~~or~~

25 (8) Negligence or wrongful actions in the performance of his
 26 duties; or

27 (9) Willfully making a false notification of child abuse or
 28 maltreatment, knowingly making false allegations of child abuse or
 29 maltreatment to law enforcement authorities, or negligently or willfully
 30 failing to make notifications of child abuse or maltreatment when required by
 31 law.

32 (b)(1) Upon satisfactory proof that any applicant or licentiate has
 33 been guilty of any of the above offenses, the board may refuse to grant a
 34 certificate to the applicant or may revoke a license of the licentiate upon a
 35 vote of at least three (3) members of the board.

36 (2) An application for reinstatement may be made to the board,

1 and the board may, upon favorable action by three (3) of its members,
 2 reinstate the applicant."

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4 SECTION 5. Arkansas Code § 17-97-311, regarding the licensing of
 5 psychologist and psychological examiners, is amended to read as follows:

6 "17-97-311. Denial, suspension, or revocation - Proceedings.

7 (a)(1) The board may not recommend suspension or revocation of
 8 licensure or refuse to issue or to renew any certificate for any cause listed
 9 in this chapter, unless the person accused has been given at least twenty (20)
 10 days' notice in writing by registered mail, with return receipt demanded, of
 11 the charges against him and a public hearing by the board.

12 (2) The written notice shall be mailed to the person's last known
 13 address, but the nonappearance of the person shall not prevent such a hearing.

14 (b) At the hearing the board may administer an oath and procure by its
 15 subpoenas the attendance of witnesses and the production of relevant books and
 16 papers.

17 (c) Any action of, or ruling or order made or entered by, the board
 18 declining to issue a certificate, declining to recommend licensure, or
 19 recommending suspension or revocation of a certificate or license, or
 20 declining to take an action against a licensee on a complaint by a client or
 21 consumer shall be subject to review by the courts of this state in the same
 22 manner and subject to the same powers and conditions which are now provided by
 23 law in regard to rulings, orders, and findings of other quasi-judicial bodies
 24 in Arkansas, where not otherwise specifically provided."

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26 SECTION 6. All provisions of this act of general and permanent nature
 27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 28 Revision Commission shall incorporate the same in the Code.

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30 SECTION 7. If any provisions of this act or the application thereof to
 31 any person or circumstance is held invalid, the invalidity shall not affect
 32 other provisions or applications of the act which can be given effect without
 33 the invalid provisions or application, and to this end the provisions of this
 34 act are declared to be severable.

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36 SECTION 8. All laws and parts of laws in conflict with this act are

1 hereby repealed.

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