

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 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H3/2/05 S3/21/05

# A Bill

HOUSE BILL 1946

5 By: Representatives S. Prater, Borhauer, Goss, Ragland  
6 By: Senator Laverty  
7  
8

## For An Act To Be Entitled

9 AN ACT TO CREATE THE CONSUMER DIRECTED CARE ACT;  
10 TO EXEMPT HOME HEALTH MAINTENANCE ACTIVITIES FROM  
11 THE NURSE PRACTICE ACT; AND FOR OTHER PURPOSES.  
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13

### Subtitle

14 THE CONSUMER DIRECTED CARE ACT.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code § 17-87-103 is amended to read as follows:

21 17-87-103. Exceptions.

22 This chapter does not prohibit:

23 (1) The furnishing of nursing assistance in an emergency;

24 (2) The practice of nursing which is incidental to their program  
25 of study by students enrolled in nursing education programs approved by the  
26 board;

27 (3) The practice of any legally qualified nurse of another state  
28 who is employed by the United States Government, or any bureau, division, or  
29 agency thereof, while in the discharge of his or her official duties, in  
30 installations where jurisdiction has been ceded by the State of Arkansas;

31 (4) The practice of any legally qualified and licensed nurse of  
32 another state, territory, or foreign country, whose responsibilities include  
33 transporting patients into, out of, or through this state, while actively  
34 engaged in patient transport, that does not exceed forty-eight (48) hours in  
35 this state;

36 (5) Nursing or care of the sick, when done in connection with



1 the practice of the religious tenets of any church by its adherents ~~thereof~~;

2 (6) The care of the sick, when done in accordance with the  
3 practice of religious principles or tenets of any well-recognized church or  
4 denomination which relies upon prayer or spiritual means of healing;

5 (7) The administration of anesthetics, under the supervision of,  
6 but not necessarily in the presence of, a licensed physician, dentist, or  
7 other person lawfully entitled to order anesthesia, by a graduate nurse  
8 anesthetist awaiting certification results while holding a temporary permit;

9 (8) The administration of anesthetics, under the supervision of,  
10 but not necessarily in the presence of, a licensed physician, dentist, or  
11 other person lawfully entitled to order anesthesia, by a registered nurse who  
12 is enrolled as a bona fide student pursuing a course in a nurse anesthesia  
13 school which is approved by a nationally recognized accrediting body and  
14 whose graduates are acceptable for certification by a nationally recognized  
15 certifying body, provided the giving or administering of the anesthetics is  
16 confined to the educational requirements of the course and under the direct  
17 supervision of a qualified instructor;

18 (9) Hospital-employed professional paramedics from administering  
19 medication for diagnostic procedures under the direction of a physician; ~~or~~

20 (10) The prescription and administration of drugs, medicines, or  
21 therapeutic devices in the presence of and under the supervision of an  
22 advanced practice nurse holding a certificate of prescriptive authority, a  
23 licensed physician, or licensed dentist by a registered nurse who is enrolled  
24 as a student in an advanced pharmacology course, provided the prescription or  
25 administration of drugs or medicines, or both, is confined to the educational  
26 requirements of the course and under the direct supervision of a qualified  
27 instructor; or

28 (11)(A) Health maintenance activities by a designated care aide  
29 for a:

30 (i) Competent adult at the direction of the adult;

31 or

32 (ii) Minor child or incompetent adult at the  
33 direction of a caretaker.

34 (B) For purposes of this section:

35 (i) "Caretaker" means a person who is:

36 (a) Directly and personally involved in

1 providing care for a minor child or incompetent adult; and

2 (b) The parent, foster parent, family member,  
3 friend, or legal guardian of the minor child or incompetent adult receiving  
4 care under subdivision (11)(B)(i)(a) of this section;

5 (ii) "Competent adult" means an individual who:

6 (a) Is eighteen (18) years of age or older;

7 and

8 (b) Has the capability and capacity to make an  
9 informed decision; and

10 (iii) "Health maintenance activities" means  
11 activities:

12 (a) That enable a minor child or adult to live  
13 in his or her home; and

14 (b) Are beyond activities of daily living  
15 that:

16 (1) The minor child or adult is unable  
17 to perform for himself or herself; and

18 (2) The attending physician, advanced  
19 practice nurse, or registered nurse determines can be safely performed in the  
20 minor child's or adult's home by a designated care aide under the direction  
21 of a competent adult or caretaker.

22 (C) For purposes of this section, "home" does not include:

23 (i) A nursing home;

24 (ii) An assisted living facility;

25 (iii) A residential care facility;

26 (iv) An intermediate care facility; or

27 (v) A hospice care facility.

28 (D) The Arkansas State Board of Nursing with the input of  
29 the Governor's Home Health Care Service Agency Advisory Council, the Arkansas  
30 Health Care Association, and the Arkansas Residential Assisted Living  
31 Association shall promulgate rules specifying which health maintenance  
32 activities are not exempted under this subdivision (11) and the minimal  
33 qualifications required of the designated care aide.

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35 /s/ S. Prater  
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