

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 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 1323

5 By: Representative D. Johnson
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For An Act To Be Entitled

9 AN ACT TO ALLOW THE ARKANSAS STATE MEDICAL BOARD,
10 THE ARKANSAS STATE BOARD OF DENTAL EXAMINERS, OR
11 THE ARKANSAS STATE BOARD OF OPTOMETRY TO
12 DISCIPLINE LICENSEES OF THE RESPECTIVE BOARD IF
13 THE LICENSEE HAS BEEN FOUND IN VIOLATION OF A
14 STATUTE OR REGULATION GOVERNING THE RESPECTIVE
15 PROFESSION IN ANOTHER STATE; AND FOR OTHER
16 PURPOSES.
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Subtitle

18 AN ACT TO PERMIT THE DISCIPLINING OF A
19 PHYSICIAN, DENTIST, DENTAL HYGIENIST OR
20 OPTOMETRIST IF THE PRACTITIONER IS FOUND
21 IN VIOLATION OF A STATUTE OR REGULATION
22 IN ANOTHER STATE.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 17-82-316(c), concerning penalties for
29 improper conduct by a licensed dentist, dental hygienist, or permit holder,
30 is amended to read as follows:

31 (c) The board may impose one (1) or more of the penalties set out in
32 subsection (b) of this section if the board finds that the licensed dentist,
33 dental hygienist, or permit holder has violated the Arkansas Dental Practice
34 Act, § 17-82-101 et seq., or the regulations of the board, or has committed
35 one (1) or more of the following acts:

36 (1) The presentation to or filing with the board, for the



1 purpose of securing a license to practice dentistry or dental hygiene or to
2 obtain any permit issued by the board, of any diploma, license, or
3 certificate illegally or fraudulently obtained by the applicant;

4 (2) The use of an assumed or fictitious name in applying for a
5 license for the purpose of shielding moral unfitness or a criminal record;

6 (3) The commission of any criminal operation; habitual
7 drunkenness for a period of three (3) months; insanity; adjudication of
8 insanity or mental incompetency if deemed detrimental to patients; conviction
9 of an infamous crime or felony; addiction to narcotics; immoral,

10 dishonorable, or scandalous conduct; professional incompetency; failure to
11 maintain proper standards of sanitation or failure otherwise to maintain
12 adequate safeguards for the health and safety of patients; or employment in
13 the practice of the profession of any drug, nostrum, unknown formula, or
14 dangerous or unknown anesthetic not generally used by the dental profession;

15 (4) The advertising of services to the public which is
16 fraudulent and misleading or which does not comply with the rules and
17 regulations of the board;

18 (5) The permitting of any unlicensed person under his or her
19 supervision or control to perform any act, service, practice, or operation on
20 any patient or prospective patient which constitutes a part of the practice
21 of dentistry or dental hygiene or is involved with the administration of
22 drugs, medicines, or anesthetics, except those services permitted by the
23 board and under the supervision of a licensed dentist;

24 (6) The violation of any rule or regulation of board standards
25 of professional conduct for dentists and dental hygienists practicing within
26 the state; ~~or~~

27 (7) The violation of any term of probation or order previously
28 entered by the board affecting the licensee or permit holder; or

29 (8) Having been found in violation of a statute or a rule or
30 regulation governing the practice of dentistry or dental hygiene by the
31 dental licensing authority or agency or another state.

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33 SECTION 2. Arkansas Code § 17-90-305(a), concerning revocation,
34 suspension, and refusal to renew optometry licenses, is amended to read as
35 follows:

36 (a) The State Board of Optometry shall have the power to revoke,

1 suspend, place a license on probation for such time as the board shall order
 2 and under such conditions as the board may impose, to ensure the health and
 3 safety of the citizens of Arkansas, impose a fine of up to one thousand
 4 dollars (\$1,000) per violation, refuse to renew a license or reprimand the
 5 licensee, or any combination thereof, if the board finds that the individual
 6 has committed any of the following offenses:

7 (1) Perpetrating a fraud on the public;

8 (2) Presenting false information or documentation to the board
 9 in an attempt to obtain or to retain a license;

10 (3) Conviction of a felony or the conviction of a misdemeanor,
 11 if the misdemeanor conduct would denote an impairment in the ability to
 12 practice optometry;

13 (4) Habitual drunkenness;

14 (5) Habitual or excessive use of schedule medication or other
 15 habit-forming or mind-altering drugs that would impair the ability to
 16 practice optometry;

17 (6) Violation of the laws of the United States or the State of
 18 Arkansas regulating the possession, distribution, and prescribing of schedule
 19 medication;

20 (7) Flagrant overcharging or billing;

21 (8) False representation of materials;

22 (9) False or misleading advertising;

23 (10) Gross incompetency in the treatment of patients;

24 (11) Unprofessional conduct;

25 (12) Suffering from mental disease or defect rendering the
 26 licensee incompetent to practice optometry as a result of proof given by a
 27 licensed medical psychiatrist in the State of Arkansas and in combination
 28 with testimony of a licensed optometrist;

29 (13) Violation of any provision of the laws of Arkansas
 30 regulating the practice of optometry;

31 (14) Violation of any rule or regulation of the board; ~~or~~

32 (15) Violation of any term of probation or order rendered by the
 33 board.; or

34 (16) Having been found in violation of a statute or a rule or
 35 regulation governing the practice of optometry by the optometry licensing
 36 authority or agency of another state.

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 2 SECTION 3. Arkansas Code § 17-95-409, concerning the definition of
 3 unprofessional conduct by physicians, is amended to read as follows:

4 (2) The words "unprofessional conduct", as used in the Arkansas
 5 Medical Practices Act, §§ 17-95-201 – 17-95-207, 17-95-301 – 17-95-305, and
 6 17-95-401 – 17-95-411, ~~are declared to~~ mean:

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

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

11 (B) Resorting to fraud, misrepresentation, or deception in
 12 applying for or securing a license to practice medicine, in taking the
 13 examination for the license, or in seeking a renewal of a license;

14 (C) Aiding or abetting an unlicensed person to practice
 15 medicine;

16 (D) Procuring or aiding or abetting in procuring a
 17 wrongful and criminal abortion;

18 (E) Violation of the laws of the United States or the
 19 State of Arkansas regulating the possession, distribution, or use of narcotic
 20 or controlled drugs classed in Schedules 1-5 of the Controlled Substances Act
 21 of 1970 or the Uniform Controlled Substances Act, §§ 5-64-101 – 5-64-608,
 22 including any amendments thereto;

23 (F) Habitual indulgence in the use of alcohol to such an
 24 extent as to render himself or herself incapable of exercising that degree of
 25 skill and judgment in the treatment of his or her patients which the moral
 26 trust and confidence in him or her demands;

27 (G) Grossly negligent or ignorant malpractice;

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

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

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

34 (K) Insanity or mental disease, if evidenced by an
 35 adjudication or by voluntary commitment to an institution for treatment of a
 36 mental disease or as determined by an examination conducted by three (3)

1 impartial psychiatrists retained by the board;

2 (L) Soliciting for patronage; advertising for patronage in
3 a false, fraudulent, deceptive, or misleading manner; advertising the quality
4 of medical services; or advertising illegal procedures and practices;

5 (M) Offering, undertaking, attempting, or agreeing to cure
6 or treat disease by a secret method, procedure, treatment, or medicine or
7 representing, directly or indirectly, that he or she can treat, operate on,
8 or prescribe for any human condition by a method, means, or procedure which
9 he or she refuses to divulge upon demand to the board;

10 (N) The willful betraying of a professional secret;

11 (O) Persistent and flagrant overcharging or overtreating
12 of patients;

13 (P) Violating a regulation of the board; ~~and~~

14 (Q) Violating a term of probation or an order previously
15 imposed by the board; and

16 (R) Having been found in violation of a statute or a rule
17 or regulation governing the practice of medicine by a medical licensing
18 authority or agency of another state.

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