

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S2/9/09 S3/5/09

A Bill

SENATE BILL 239

5 By: Senators Bledsoe, *Horn*
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For An Act To Be Entitled

9 AN ACT TO AUTHORIZE *PHYSICIANS AND PODIATRISTS* TO
10 DELEGATE THE PERFORMANCE OF SOME SIMPLE
11 PROCEDURES TO EMPLOYEES; AND FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO AUTHORIZE *PHYSICIANS AND*
14 *PODIATRISTS* TO DELEGATE THE PERFORMANCE
15 OF SOME SIMPLE PROCEDURES TO EMPLOYEES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 *SECTION 1. Arkansas Code § 17-95-202 is amended to read as follows:*
22 *17-95-202. Definitions.*

23 *As used in the Arkansas Medical Practices Act, §§ 17-95-201 et seq.,*
24 *17-95-301 et seq., and 17-95-401 et seq.:*

25 (1) *“Active” means actively engaged in the full-time practice of*
26 *medicine;*

27 (2) *“Board” means the Arkansas State Medical Board; and*

28 (3) *“Practice of medicine” means:*

29 (A) *Holding out one’s self to the public within this state*
30 *as being able to diagnose, treat, prescribe for, palliate, or prevent any*
31 *human disease, ailment, injury, deformity, or physical or mental condition,*
32 *whether by the use of drugs, surgery, manipulation, electricity, or any*
33 *physical, mechanical, or other means whatsoever;*

34 (B) *Suggesting, recommending, prescribing, or*
35 *administering any form of treatment, operation, or healing for the intended*
36 *palliation, relief, or cure of any physical or mental disease, ailment,*



1 injury, condition, or defect of any person with the intention of receiving,
2 either directly or indirectly, any fee, gift, or compensation whatsoever;

3 (C) Maintaining an office or other place to meet persons
4 for the purpose of examining or treating persons afflicted with disease,
5 injury, or defect of body or mind;

6 (D) Using the title "M.D.", "M.B.", "D.O.", "physician",
7 "surgeon", or any other word or abbreviation to indicate or induce others to
8 believe that one is engaged in the diagnosis or treatment of persons
9 afflicted with disease, injury, or defect of body or mind, except as
10 otherwise expressly permitted by the laws of this state relating to the
11 practice of any limited field of the healing arts; ~~or~~

12 (E) Performing any kind of surgical operation upon a human
13 being; or

14 (F) Delegating certain medical practices to other
15 personnel under rules adopted by the board.

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17 SECTION 2. Arkansas Code Title 17, Chapter 95, Subchapter 2 is amended
18 to add an additional section to read as follows:

19 17-95-208. Rules on physician's authority to delegate.

20 (a) The Arkansas State Medical Board shall adopt rules that establish
21 standards to be met and procedures to be followed by a physician with respect
22 to the physician's delegation of the performance of medical practices to a
23 qualified and properly trained employee who is not licensed or otherwise
24 specifically authorized by the Arkansas Code to perform the practice.

25 (b) The rules adopted under subsection (a) of this section shall
26 provide that:

27 (1) The delegating physician remains responsible for the acts of
28 the employee performing the delegated practice;

29 (2) The employee performing the delegated practice shall not be
30 represented to the public as a licensed physician, licensed nurse, licensed
31 physician's assistant, or other licensed healthcare provider; and

32 (3) Medical practices delegated under this section shall be
33 performed under the physician's supervision.

34 (c) Delegation of medical practices under this section may include
35 administration of drugs that do not require substantial specialized judgment
36 and skill based on knowledge and application of the principles of biological,

1 physical, and social sciences as determined by the board.

2 (d) Rules adopted regarding the delegation of the administration of
3 drugs shall provide for:

4 (1) The delegated administration of drugs only within the
5 physical boundaries of the delegating physician's offices;

6 (2) Evaluation of whether delegation is appropriate according to
7 the acuity of the patient involved;

8 (3) Training and competency requirements that shall be met by
9 the person administering the drugs; and

10 (4) Other standards and procedures the board considers relevant.

11 (e) The board shall not adopt rules that:

12 (1) Authorize a physician to transfer to a health professional
13 other than another physician the physician's responsibility for supervising a
14 delegated medical practice;

15 (2) Authorize an individual to whom a medical practice is
16 delegated to delegate the performance of that practice to another individual;

17 (3) Authorize a physician to delegate the administration of
18 anesthesia; or

19 (4) Conflict with a provision of the Arkansas Code that
20 specifically authorizes an individual to perform a particular practice.

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22 SECTION 3. Arkansas Code § 17-96-202(a)(3), concerning the authority
23 of the Arkansas Board of Podiatric Medicine to adopt rules, is amended to
24 read as follows:

25 (3)(A) The board shall make and adopt all necessary rules,
26 regulations, and bylaws necessary or convenient to perform its duties and to
27 transact business as required by law.

28 (B) The rules adopted under subdivision (a)(3)(A) of this
29 section shall authorize the delegation of certain medical practices to
30 persons other than podiatrists.

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32 SECTION 4. Arkansas Code Title 17, Chapter 96, Subchapter 2 is amended
33 to add an additional section to read as follows:

34 17-96-204. Rules on podiatrist's authority to delegate.

35 (a) The Arkansas Board of Podiatric Medicine shall adopt rules that
36 establish standards to be met and procedures to be followed by a podiatrist

1 with respect to the podiatrist's delegation of the performance of medical
2 practices to a qualified and properly trained employee who is not licensed or
3 otherwise specifically authorized by the Arkansas Code to perform the
4 practice.

5 (b) The rules adopted under subsection (a) of this section shall
6 provide that:

7 (1) The delegating podiatrist is responsible for the acts of the
8 employee performing the delegated practice;

9 (2) The employee performing the delegated practice shall not be
10 represented to the public as a licensed podiatrist, licensed nurse, licensed
11 podiatrist's assistant, or other licensed healthcare provider; and

12 (3) Medical practices delegated under this section shall be
13 performed under the podiatrist's supervision.

14 (c) Delegation of medical practices under this section may include
15 administration of drugs that do not require substantial specialized judgment
16 and skill based on knowledge and application of the principles of biological,
17 physical, and social sciences as determined by the board.

18 (d) Rules adopted regarding the delegation of the administration of
19 drugs shall provide for:

20 (1) The delegated administration of drugs only within the
21 physical boundaries of the delegating podiatrist's offices;

22 (2) Evaluation of whether delegation is appropriate according to
23 the acuity of the patient involved;

24 (3) Training and competency requirements that shall be met by
25 the person administering the drugs; and

26 (4) Other standards and procedures the board considers relevant.

27 (e) The board shall not adopt rules that:

28 (1) Authorize a podiatrist to transfer to a health professional
29 other than another physician the podiatrist's responsibility for supervising
30 a person who is performing a delegated medical practice;

31 (2) Authorize an individual to whom a medical practice is
32 delegated to delegate the performance of that practice to another individual;

33 (3) Authorize a podiatrist to delegate the administration of
34 anesthesia; or

35 (4) Conflict with a provision of the Arkansas Code that
36 specifically authorizes an individual to perform a particular practice.

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/s/ Bledsoe