

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4  
5 By: Senator P. Malone  
6

# A Bill

SENATE BILL 295

## For An Act To Be Entitled

8 AN ACT CONCERNING PUBLIC RECORDS RELATING TO THE  
9 INVESTIGATION OF LICENSE HOLDERS AND APPLICANTS OF  
10 THE ARKANSAS STATE BOARD OF PHARMACY; AND FOR OTHER  
11 PURPOSES.  
12  
13

## Subtitle

15 CONCERNING PUBLIC RECORDS RELATING TO THE  
16 INVESTIGATION OF LICENSE HOLDERS AND  
17 APPLICANTS OF THE ARKANSAS STATE BOARD OF  
18 PHARMACY.  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code § 17-92-311 is amended to read as follows:  
24 17-92-311. Revocation, suspension, or nonrenewal – Grounds.

25 (a) The Arkansas State Board of Pharmacy may revoke an existing  
26 license of a licensed pharmacist or may suspend the license or may refuse to  
27 issue a license if the holder or applicant, as the case may be, has committed  
28 or is found guilty by the board of any of the following acts or offenses set  
29 forth:

30 (1) That the person is guilty of fraud, deceit, or  
31 misrepresentation in the practice of pharmacy;

32 (2) That the person is unfit or incompetent to practice pharmacy  
33 by reason of negligent performance of his or her duties;

34 (3) That the person has been found guilty or pleaded guilty or  
35 nolo contendere in a criminal proceeding, regardless of whether or not the  
36 adjudication of guilt or sentence is withheld, by a court of this state,



1 another state, or the federal government for:

2 (A) Any felony;

3 (B) Any act involving moral turpitude, gross immorality,  
4 or ~~which~~ that is related to the qualifications, functions, and duties of a  
5 licensee; or

6 (C) Any violation of the pharmacy or drug laws of this  
7 state or rules and regulations pertaining thereto, or of the pharmacy or drug  
8 statutes, rules, and regulations of any other state or of the federal  
9 government;

10 (4) That the person has become insane or has been adjudged by a  
11 court of competent jurisdiction to be of unsound mind;

12 (5) That the person has directly or indirectly aided or abetted  
13 the practice of pharmacy by a person not authorized to practice pharmacy by  
14 the board;

15 (6) That the person has been guilty of fraud or  
16 misrepresentation in obtaining a license to practice pharmacy in the State of  
17 Arkansas as a licensed pharmacist;

18 (7) That the person has been guilty of gross unprofessional or  
19 dishonorable conduct;

20 (8) That the person has willfully violated any of the provisions  
21 of the pharmacy laws of the State of Arkansas;

22 (9) That the person is addicted to the use of intoxicating  
23 liquors or drugs to such a degree as to render him or her unfit, in the  
24 opinion of the board, to manufacture, compound, sell, or dispense drugs or  
25 medicine;

26 (10) That the person knowingly adulterated or caused to be  
27 adulterated any drugs, chemical, or medical preparations and offered such  
28 preparations for sale; or

29 (11) That the person had his or her license to practice pharmacy  
30 revoked, suspended, or had other disciplinary action taken, or had his or her  
31 application for a license refused, revoked, or suspended, or had voluntarily  
32 or otherwise surrendered his or her license after a disciplinary action was  
33 instituted by a duly authorized professional disciplinary agency of another  
34 state.

35 (b) Nothing in this section should be construed as affecting the  
36 rights of any person to appeal any order of the board as now provided by the

1 state pharmacy laws.

2 (c)(1) Except under subdivisions (c)(2) and (c)(3) on this section,  
3 all public records relating to an investigation by the board of a license  
4 holder or applicant for an act or offense under subsection (a) of this  
5 section are confidential and exempt from the Freedom of Information Act of  
6 1967, § 25-19-101 et seq.

7 (2) All records pertaining to an investigation under subdivision  
8 (c)(1) of this section shall be open for inspection and copying by the  
9 license holder or applicant who is the subject of the investigation.

10 (3)(A) Except as provided in subdivision (c)(3)(B) of this  
11 section, all public records pertaining to an investigation under subdivision  
12 (c)(1) of this section shall be open for inspection and copying at the  
13 conclusion of the investigation and all proceedings conducted in connection  
14 with that investigation, including without limitation:

- 15 (i) An administrative hearing before the board; and
- 16 (ii) An appeal of a decision of the board.

17 (B) Information otherwise exempt under the Freedom of  
18 Information Act of 1967, § 25-19-101 et seq., shall be excluded from records  
19 open for inspection and copying under subdivision (c)(3)(A) of this section.

20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36