

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S3/19/13

A Bill

HOUSE BILL 1874

5 By: Representative Gillam
6 *By: Senator J. Woods*
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE OFFENSES OF INSURANCE FRAUD BY
10 USE OF A PROCURER AND PROHIBITED ACTIVITY BY A
11 PROCURER; TO REQUIRE A CHIROPRACTIC PHYSICIAN WHO
12 USES A PROCURER TO ABIDE BY CERTAIN REGULATIONS; TO
13 EMPOWER THE ARKANSAS STATE BOARD OF CHIROPRACTIC
14 EXAMINERS TO PROSECUTE VIOLATIONS; AND FOR OTHER
15 PURPOSES.
16
17

Subtitle

18 CONCERNING INSURANCE FRAUD BY CERTAIN
19 PERSONS; AND CONCERNING CHIROPRACTIC
20 PHYSICIAN PRACTICES AND THE ARKANSAS
21 STATE BOARD OF CHIROPRACTIC EXAMINERS.
22
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code Title 5, Chapter 37, Subchapter 5, is amended
28 to add two additional sections to read as follows:

29 5-37-505. Insurance fraud by use of a procurer.

30 (a) As used in this section and § 5-37-506:

31 (1)(A) "Procurer" means a person or entity that for pecuniary
32 benefit procures or attempts to procure a client, patient, or customer by
33 directly contacting the client, patient, or customer, in person, by
34 telephone, or by electronic means, at the direction of, request of,
35 employment of, or in cooperation with a provider.

36 (B) "Procurer" does not include a provider or a person



1 that procures or attempts to procure a client, patient, or customer for a
2 provider through public media or a person that refers a client, patient, or
3 customer to a provider as otherwise authorized by law;

4 (2) "Provider" means:

5 (A) An attorney;

6 (B) A healthcare provider; or

7 (C) An employee of a provider; and

8 (3) "Public media" means telephone directories, professional
9 directories, newspapers and other periodicals, radio and television,
10 billboards, and mailed or electronically transmitted written or visual
11 communications that do not involve in-person or direct contact with a
12 specific prospective client, patient, or customer.

13 (b) A person commits the offense of insurance fraud by use of a
14 procurer if:

15 (1) He or she is a procurer or provider; and

16 (2) For the purpose of defrauding an insured person or an
17 insurance carrier, he or she knowingly:

18 (A) Falsely represents the services to be provided to an
19 actual or prospective client, patient, or customer; or

20 (B) Makes a misrepresentation, including without
21 limitation affiliation with an insurance company, a law enforcement agency,
22 or a governing board of a healthcare provider while procuring or attempting
23 to procure a client, patient, or customer; or

24 (C) Uses, solicits, directs, hires, or employs another
25 person to act as a procurer to falsely represent the services to be provided
26 to an actual or prospective client, patient, or customer.

27 (c) Insurance fraud by use of a procurer or provider is a Class D
28 felony.

29
30 5-37-506. Prohibited activity by a procurer.

31 (a) A person commits the offense of prohibited activity by a procurer
32 if:

33 (1) The person is a procurer and he or she knowingly:

34 (A) Offers or gives anything of value to a person in order
35 to cause the person to seek medical care from a specific healthcare provider;
36 or

1 (B) Solicits a person currently under the care of a
2 chiropractic physician to seek care from another chiropractic physician; or

3 (2) The person is a provider and he or she knowingly permits a
4 procurer that he or she uses, directs, or employs to engage in conduct
5 prohibited by subdivision (a)(1) of this section.

6 (b) Prohibited activity by a procurer or provider is a Class D felony.
7

8 SECTION 2. Arkansas Code § 17-81-105 is amended to read as follows:
9 17-81-105. Prosecution of violations.

10 (a) Subject to reasonable prosecutorial discretion, it shall be it is
11 the duty of the ~~several~~ prosecuting attorneys of the State of Arkansas to
12 prosecute to final judgment every criminal violation of this chapter
13 committed within their jurisdictions when requested and authorized by the
14 Arkansas State Board of Chiropractic Examiners.

15 (b)(1) The board may also take administrative action against a person
16 that violates this subchapter, § 5-37-505, or § 5-37-506.

17 (2) Upon a finding that a chiropractic physician has violated
18 this subchapter, § 5-37-505, or § 5-37-506, the board may order:

19 (A) Sanctions;

20 (B) A license suspension; or

21 (C) A license revocation.

22 (c) The board has immunity from civil liability for any requested
23 prosecutorial action resulting from this section.
24

25 SECTION 3. Arkansas Code Title 17, Chapter 81, Subchapter 1, is
26 amended to add two additional sections to read as follows:

27 17-81-107. Use of a procurer.

28 (a) As used in this section:

29 (1)(A) "Procurer" means a person or entity who for pecuniary
30 benefit procures or attempts to procure a client, patient, or customer by
31 directly contacting the client, patient, or customer in person, by telephone,
32 or by electronic means at the direction of, request of, employment of, or in
33 cooperation with a chiropractic physician.

34 (B) "Procurer" does not include a provider or a person
35 that procures or attempts to procure a client, patient, or customer for a
36 provider through public media or a person that refers a client, patient, or

1 customer to a provider as otherwise authorized by law; and

2 (2) "Public media" means telephone directories, professional
3 directories, newspapers and other periodicals, radio and television,
4 billboards, and mailed or electronically transmitted written or visual
5 communications that do not involve in-person or direct contact with specific
6 prospective clients, patients, or customers.

7 (b) A chiropractic physician who uses a procurer is required to:

8 (1) Have a written contract with the procurer or procurement
9 company with whom the chiropractic physician engages; and

10 (2) Register the name of any procurer with whom the chiropractic
11 physician contracts with the Arkansas State Board of Chiropractic Examiners.

12
13 17-81-108. Rulemaking and enforcement.

14 The Arkansas State Board of Chiropractic Examiners shall establish
15 rules to enforce the requirements of this chapter.

16
17 */s/Gillam*
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36