

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S3/19/13
A Bill

HOUSE BILL 1874

By: Representative Gillam
By: Senator J. Woods

For An Act To Be Entitled

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

Subtitle

CONCERNING INSURANCE FRAUD BY CERTAIN PERSONS; AND CONCERNING CHIROPRACTIC PHYSICIAN PRACTICES AND THE ARKANSAS STATE BOARD OF CHIROPRACTIC EXAMINERS.

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

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

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

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

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

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



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

(2) "Provider" means:

(A) An attorney;

(B) A healthcare provider; or

(C) An employee of a provider; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Sanctions;

(B) A license suspension; or

(C) A license revocation.

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

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

17-81-107. Use of a procurer.

(a) As used in this section:

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

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

customer to a provider as otherwise authorized by law; and

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

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

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

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

17-81-108. Rulemaking and enforcement.

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

/s/Gillam

APPROVED: 03/26/2013