

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S2/3/15 S3/17/15
A Bill

SENATE BILL 124

By: Senator D. Johnson
By: Representative Vines

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 17 OF
THE ARKANSAS CODE CONCERNING PROFESSIONS,
OCCUPATIONS, AND BUSINESSES; AND FOR OTHER PURPOSES.

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 17
OF THE ARKANSAS CODE CONCERNING
PROFESSIONS, OCCUPATIONS, AND BUSINESSES.

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

SECTION 1. Arkansas Code § 17-14-201(b)(3), concerning vacancy and appointment of a financial member, is amended to delete and add language as follows:

(3) The Arkansas Bankers Association, the Arkansas League of Savings Institutions, the Arkansas Association of Bank Holding Companies, the Arkansas Community Bankers Independent Bankers Association, the Mortgage Bankers Association of Arkansas, and the Arkansas Credit Union League Cornerstone Credit Union League ~~should~~ shall annually each submit a list of two (2) names, ~~annually,~~ on or before January 15 of each calendar year, to the Governor, and the financial member shall be appointed and the vacancy filled from the lists of names provided.

SECTION 2. Arkansas Code § 17-19-111, concerning fees for bail bondsmen, is amended to read as follows to delete remaining references to special revenues that the amendment of the section by Acts 2013, No. 1281,



inadvertently failed to remove:

17-19-111. Fees.

(a) Notwithstanding any other provisions of this chapter to the contrary, and notwithstanding any other provisions of Arkansas law to the contrary, a professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 is hereby required to charge, collect, and remit the following fees into the Bail Bondsman Board Fund for the support, personnel, maintenance, and operations of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board and for the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission, in addition to any other fees, taxes, premium taxes, levies, or other assessments imposed in connection with the issuance of bail bonds under Arkansas law.

(b)(1) In addition to the bail or appearance bond premium or compensation allowed under § 17-19-301, each licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 shall charge and collect as a nonrefundable fee for the Bail Bondsman Board Fund an additional ~~ten-dollar~~ fee of ten dollars (\$10.00) per bail bond for giving bond for each ~~and every~~ bail and appearance bond issued by the licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 by or through its individual licensees.

(2) The ~~fees~~ fee shall be collected quarterly and then reported and filed with the board no later than fifteen (15) calendar days after the end of each quarter.

(3) The notarized quarterly reporting form and a notarized annual reconciliation form as to all fees collected for the Bail Bondsman Board Fund shall be filed by each professional bail bond company on forms prescribed by the board and at the times and in the manner as the board shall prescribe in conformity with this section.

(4) A paper-processing charge of fifteen dollars (\$15.00) shall be collected on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reporting requirements contained ~~herein~~ in this section and to further defray the surety's costs incurred in the collection of all fees due, owing, and collected on behalf of the Bail Bondsman Board Fund and the surety's costs incurred in the preparation of all required

reports submitted in conformance with the standards established by the American Institute of Certified Public Accountants.

(c)(1) The board may, ~~in its discretion,~~ grant an extension for the filing of the report and fees for good cause shown upon timely written request.

(2) Absent an extension for good cause shown, each licensed professional bail bond company failing to report or pay these fees shall be liable to the Bail Bondsman Board Fund for a monetary penalty of one hundred dollars (\$100) per day for each day of delinquency.

(3) The board may pursue any appropriate legal remedies on behalf of the Bail Bondsman Board Fund to collect any delinquent fees and penalties ~~owed as special revenues.~~

(d)(1) Upon collection of the fees and any monetary penalties, the board shall deposit or fund ~~as special revenues:~~

(A) Sufficient fees and penalties directly into the Bail Bondsman Board Fund to provide for the personal services and operating expenses of the board; and

(B) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2) The fees and penalties shall be in addition to all other fees, licensure or registration fees, taxes, assessments, levies, or penalties payable to any federal or state office, court, agency, board, or commission or other public official or officer of the state, or its political subdivisions, including counties, cities, or municipalities, by a professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102.

(3)(A) Each ~~individual~~ bail bondsman is required to assist in collection of the fees but is exempt from the ~~duty and responsibility of~~ payment of the fees to the Bail Bondsman Board Fund unless he or she misappropriates or converts such moneys to his or her own use or to the use of others not entitled to the fees.

(B) In that case, the board shall proceed on behalf of the Bail Bondsman Board Fund with any civil or criminal remedies at its disposal against the individual responsible.

(C) Upon criminal conviction of the individual responsible

for fraudulent conversion of the moneys due the Bail Bondsman Board Fund, the individual responsible shall pay restitution to the Bail Bondsman Board Fund, and the court shall incorporate a finding to that effect in its order.

(D) Absent substantial evidence to the contrary, the violations ~~of~~ by the individual may be attributed to the employing bail bond company, and any criminal or civil court may, in its discretion and upon substantial evidence, order the employing bail bond company to pay restitution to the Bail Bondsman Board Fund on behalf of the responsible individual and shall incorporate that finding into its order.

(e) For purposes of any statutory security deposit Arkansas law requires of professional bail bond companies, including, but not limited to, the deposit under § 17-19-205, the payment of the fees required by this section is considered to be a duty of the licensee, so as to allow the board on behalf of the Bail Bondsman Board Fund to make a claim against any such deposit for the fees required by this section and any penalties owed ~~thereon~~ on the fees, up to the limit of any security deposit.

(f) Under no circumstances shall the fees or penalties ~~thereon~~ held in or for deposit into the Bail Bondsman Board Fund ~~as special revenues~~ be subject to any tax, levy, or assessment of any kind, including, but not limited to, ~~any~~ bond forfeiture claims, ~~any~~ garnishment or general creditors' claims, ~~any~~ remedies under Title 16 of this Code, or other provisions of Arkansas law.

SECTION 3. Arkansas Code § 17-24-305(b), concerning the fees and disposition of the fees collected by the State Board of Collection Agencies, is being amended for clarification to read as follows:

~~(b) All income from fees imposed under this section shall be distributed as follows:~~

~~(1) Beginning July 1, 2013, and each fiscal year thereafter, the State Board of Collection Agencies shall remit to each entity in subdivisions (b)(2) (7) one (1) annual payment. Distributions shall be funded in the percentage of the total funds available up to the maximum authorized. If less than one hundred percent (100%) of the total allocation is available for distribution, all allocations listed in (b)(2) (7) shall be funded at a prorated percentage consistent with the available funds. At no time shall the total distribution exceed the maximum amounts as listed in (b)(2) (7);~~

~~(2) An amount not to exceed one hundred fifteen thousand dollars (\$115,000) to the Treasurer of State for the Division of Medical Services of the Department of Human Services for deposit into a paying account as determined by the Chief Fiscal Officer of the State to be used in accordance with § 20-10-705;~~

~~(3)(A) An amount not to exceed six hundred thousand dollars (\$600,000) to the University of Arkansas for Medical Sciences for deposit into a financial institution in accordance with the policies of the University of Arkansas.~~

~~(B) The funds shall be expended for the College of Pharmacy and the College of Nursing in accordance with § 6-64-417;~~

~~(4)(A) An amount not to exceed two hundred fifty thousand dollars (\$250,000) to Arkansas State University—Mountain Home for deposit into the Arkansas State University—Mountain Home Fund.~~

~~(B) The funds shall be expended exclusively for the Arkansas State University—Mountain Home Practical Nursing Program;~~

~~(5)(A) An amount not to exceed one hundred thousand dollars (\$100,000) to the University of Central Arkansas for deposit into the University of Central Arkansas Fund.~~

~~(B) The funds shall be expended exclusively for the University of Central Arkansas Department of Nursing;~~

~~(6)(A) An amount not to exceed one hundred thousand dollars (\$100,000) to Southern Arkansas University for deposit into the Southern Arkansas University Fund.~~

~~(B) The funds shall be expended exclusively for personal services and operating expenses of the Southern Arkansas University system; and~~

~~(7) An amount not to exceed one hundred thousand dollars (\$100,000) to Henderson State University for deposit into the Henderson State University Fund.~~

(b)(1) All income from fees imposed under this section shall be distributed in the form of one (1) annual payment that is a percentage of the total funds available up to the maximum authorized under this subsection.

(2) However, if less than one hundred percent (100%) of the total allocation is available for distribution, all allocations listed in subdivisions (b)(3)(A)-(F) of this section shall be funded at a prorated

percentage consistent with the available funds, not to exceed the maximum amounts listed in subdivisions (b)(3)(A)-(F) of this section.

(3) Beginning July 1, 2013, and each fiscal year thereafter, the State Board of Collection Agencies shall remit to:

(A) The Treasurer of State for the Division of Medical Services of the Department of Human Services, an amount not to exceed one hundred fifteen thousand dollars (\$115,000) for deposit into a paying account as determined by the Chief Fiscal Officer of the State to be used in accordance with § 20-10-705;

(B) The University of Arkansas for Medical Sciences, an amount not to exceed six hundred thousand dollars (\$600,000) for deposit into a financial institution in accordance with the policies of the University of Arkansas for Medical Sciences to be expended for the College of Pharmacy and the College of Nursing in accordance with § 6-64-417;

(C) Arkansas State University – Mountain Home, an amount not to exceed two hundred fifty thousand dollars (\$250,000) for deposit into the Arkansas State University – Mountain Home Fund to be expended exclusively for the Arkansas State University – Mountain Home Practical Nursing Program;

(D) The University of Central Arkansas, an amount not to exceed one hundred thousand dollars (\$100,000) for deposit into the University of Central Arkansas Fund to be expended exclusively for the University of Central Arkansas Department of Nursing;

(E) Southern Arkansas University, an amount not to exceed one hundred thousand dollars (\$100,000) for deposit into the Southern Arkansas University Fund to be expended exclusively for personal services and operating expenses of the Southern Arkansas University system; and

(F) Henderson State University, an amount not to exceed one hundred thousand dollars (\$100,000) for deposit into the Henderson State University Fund.

(4) Funds remaining after the distributions listed in subdivisions (b)(3)(A)-(F) of this section shall be deposited into the State Board of Collection Agencies account in a bank authorized to do business in this state.

SECTION 4. Arkansas Code § 17-24-305(c), concerning the fees and disposition of the fees collected by the State Board of Collection Agencies,

is repealed.

~~(c) Funds remaining after the distributions in subdivisions (b)(2)-(7) of this section shall be deposited into the State Board of Collection Agencies account in some bank authorized to do business in this state.~~

SECTION 5. Arkansas Code § 17-28-305(b), concerning exceptions to local regulatory authority for electricians, is amended for grammatical purposes to read as follows:

(b)(1) ~~Any~~ A city or town may by ordinance, rules, regulations, or contract prescribe rules, regulations, and standards for the materials used in the construction, installation, and inspection of all electrical work in the city or county, provided the rules, regulations, or standards are not in conflict with the standards prescribed by the Board of Electrical Examiners of the State of Arkansas under ~~the authority of~~ § 17-28-202, § 17-55-101 et seq., and § 20-31-104.

(2) ~~However, a~~ A city or county may by ordinance require a person, before doing electrical work on his or her primary residence, to demonstrate a technical competency to comply with the city or county standards.

(3) If the city has adopted an ordinance to exercise its territorial planning jurisdiction ~~and if the city and county agree to authorize such,~~ a the city may exercise jurisdiction over the construction, installation, and inspection of electrical work within the city's territorial planning jurisdiction for planning authorized under § 14-56-413 if the city and county agrees to the exercise of jurisdiction by the city over electrical work within the city's territorial planning jurisdiction.

SECTION 6. Arkansas Code § 17-39-313(d), concerning the creation of the position of the Administrator of the Arkansas Board of Private Investigators and Private Security Agencies, is repealed to eliminate the dual codification of the provision.

~~(d) The position of Administrator of the Arkansas Board of Private Investigators and Private Security Agencies is created. The Director of the Department of Arkansas State Police, or his or her designated representative, shall serve as the administrator. The administrator shall not be a member of the board, shall perform such duties as may be prescribed by the board, and~~

~~shall have no financial or business interests, contingent or otherwise, in any security services contractor or investigating company.~~

SECTION 7. Arkansas Code § 17-42-510(a)(16), concerning the education fees collected by the Arkansas Real Estate Commission, is amended to correct grammar to read as follows:

(16) ~~An~~ For an appeal of the dismissal of a complaint by the Executive Director of the Arkansas Real Estate Commission, a filing fee not to exceed one hundred dollars (\$100).

SECTION 8. Arkansas Code § 17-42-512(c)(2), concerning the term of a license from the Arkansas Real Estate Commission, is amended to correct the sentence structure and grammar to read as follows:

(2) ~~An application for renewal of a license that has been submitted but not renewed by the date of expiration is considered a new applicant. If a license is not renewed by the date of its expiration, an application submitted for renewal of the license is considered a new application for licensure.~~

SECTION 9. Arkansas Code § 17-42-515(13), concerning violations, is amended to clarify language as follows:

(13) ~~Other~~ Engaging in other conduct that constitutes improper, fraudulent, or dishonest dealing.

SECTION 10. Arkansas Code § 17-42-516(a)(5)(A), concerning investigation of complaints and penalties, is amended to clarify language as follows:

(A) Suspend, revoke, or deny:

(i) ~~the~~ The license of the person or entity; or

(ii) A course approval or ~~its~~ the renewal of a course approval;

SECTION 11. Arkansas Code § 17-42-517(a)(3)(B), concerning the dismissal of a complaint or appeal to the Arkansas Real Estate Commission, is amended to correct grammar to read as follows:

(B) If the commission's review results in an order to hold

a hearing ~~being ordered~~, the filing fee and the cost of preparing the record are refunded to the appellant.

SECTION 12. Arkansas Code § 17-42-517(b)(2), concerning the dismissal of a complaint or appeal to the Arkansas Real Estate Commission, is amended to correct grammar to read as follows:

(2) The decision by the commission may be to affirm the dismissal ~~by the executive director's dismissal~~ director, to order additional investigation, or to order a hearing.

SECTION 13. Arkansas Code § 17-86-306(d)(1), concerning requirements for a massage therapy school, is amended to clarify language as follows:

(d)(1) ~~Schools~~ A school shall require a physical examination by a medical doctor documenting that the student poses no health risk to give and receive massage.

SECTION 14. Arkansas Code § 17-87-102 is amended to correct numbering and clarify language as follows:

17-87-102. Definitions.

As used in this chapter:

(1) "Board" means the Arkansas State Board of Nursing;

(2) "Collaborative practice agreement" means a written plan that identifies a physician who agrees to collaborate with an advanced practice registered nurse in the joint management of the health care of the advanced practice registered nurse's patients, and that outlines procedures for consultation with or referral to the collaborating physician or other ~~health care professionals~~ healthcare professional as indicated by a patient's ~~health care~~ healthcare needs;

(3) "Consulting physician" means a physician licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., with obstetrical privileges in a hospital, who has agreed to practice in consultation with a certified nurse midwife;

(4)(A) "Practice of advanced practice registered nursing" means the delivery of ~~health care~~ healthcare services for compensation by a professional ~~nurses who have~~ nurse who has gained additional knowledge and skills through successful completion of an organized program of nursing

education that certifies nurses for advanced practice roles as certified nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, and clinical nurse specialists.

(B) “Practice of advanced practice registered nursing” ~~consists of~~ includes the practice of nursing as a:

~~(i) “Practice of certified nurse practitioner nursing” means the performance for compensation of nursing skills by a registered nurse who, as demonstrated by national certification, has advanced knowledge and practice skills in the delivery of nursing services.~~

(i) Certified nurse practitioner;

(ii) Certified registered nurse anesthetist;

(iii) Certified nurse midwife; and

(iv) Clinical nurse specialist;

(5) “Practice of certified nurse midwifery” means the performance for compensation of ~~nursing skills~~ advanced nursing practices by a certified nurse midwife that are relevant to the management of women’s health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, family planning, and gynecological needs of women, within a ~~health care~~ healthcare system that provides for consultation, collaborative management, or referral as indicated by the health status of the client;

~~(6)(A) “Practice of registered nurse practitioner nursing” means the delivery of health care services for compensation in collaboration with and under the direction of a licensed physician or under the direction of protocols developed with a licensed physician.~~

~~(B) A registered nurse practitioner is authorized to engage in activities as recognized by the nursing profession and as authorized by the board.~~

~~(C) This subdivision (8) does not limit a registered nurse practitioner from engaging in activities that normally constitute the practice of nursing, or activities that may be performed by persons without the necessity of the license to practice medicine.~~

(6) “Practice of certified nurse practitioner nursing” means the performance for compensation of advanced nursing practices by a registered nurse who, as demonstrated by national certification, has advanced knowledge and practice skills in the delivery of nursing services;

(7)(A) “Practice of certified registered nurse anesthesia” means

the performance for compensation of advanced ~~nursing skills~~ nursing practices by a certified registered nurse anesthetist that are relevant to the administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, licensed dentist, or other person lawfully entitled to order anesthesia.

(B) A certified registered nurse anesthetist may order nurses, within his or her scope of practice, to administer drugs preoperatively and postoperatively in connection with an anesthetic or other operative or invasive procedure, or both, that will be or has been provided;

(8) "Practice of clinical nurse specialist nursing" means the performance for compensation of ~~nursing skills~~ advanced nursing practices by a registered nurse who, through study and supervised practice at the graduate level and as evidenced by national certification, has advanced knowledge and practice skills in a specialized area of nursing practice;

(9) "Practice of licensed practical nursing" means the performance for compensation of ~~acts involving nursing practices by a~~ licensed practical nurse that are relevant to the care of the ill, injured, or infirm, or the delegation of certain nursing practices to other personnel as set forth in regulations established by the board, under the direction of a ~~professional~~ registered nurse, an advanced practice registered nurse, a licensed physician, or a licensed dentist, ~~which acts that~~ do not require the substantial specialized skill, judgment, and knowledge required in professional nursing;

(10) "Practice of professional nursing" means the performance by a registered nurse or an advanced practice registered nurse for compensation of any acts involving:

(A) The observation, care, and counsel of the ill, injured, or infirm;

(B) The maintenance of health or prevention of illness of others;

(C) The supervision and teaching of other personnel;

(D) The delegation of certain nursing practices to other personnel as set forth in regulations established by the board; or

(E) The administration of medications and treatments as prescribed by practitioners authorized to prescribe and treat in accordance with state law when such acts require substantial specialized judgment and

skill based on knowledge and application of the principles of biological, physical, and social sciences; ~~and~~

(11) "Practice of psychiatric technician nursing" means the performance for compensation of ~~acts involving nursing practices by a licensed psychiatric technician nurse that are relevant to the care of the physically and mentally impaired, injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in regulations established by the board, and the carrying out of medical orders under the direction of a professional registered nurse, an advanced practice registered nurse, a licensed physician, or a licensed dentist, when such activities do not require the substantial specialized skill, judgment, and knowledge required in professional nursing-;~~ and

(12)(A) "Practice of registered nurse practitioner nursing" means the performance for compensation of nursing practices by a registered nurse practitioner that are relevant to the delivery of healthcare services in collaboration with and under the direction of a licensed physician or under the direction of protocols developed with a licensed physician.

(B) A registered nurse practitioner is authorized to engage in nursing practices as recognized by the nursing profession and as authorized by the board.

SECTION 15. Arkansas Code § 17-90-101(a)(3)(C)(ii), concerning the practice of optometry, is amended for clarification to read as follows:

(ii) A prescription written by an optometrist for hydrocodone combination drugs, regardless of their schedule, in combination with oral analgesic drugs, ~~is limited to no more than~~ shall not exceed seventy-two (72) hours and ~~no authorized~~ shall not authorize refills.

SECTION 16. Arkansas Code § 17-90-403(b)(2), concerning the authority to possess, administer, and prescribe pharmaceutical agents in the practice of optometry, is amended for clarification to read as follows:

(2) A prescription written by an optometrist for hydrocodone combination drugs, regardless of their schedule, in combination with oral analgesic drugs, ~~is limited to no more than~~ shall not exceed seventy-two (72) hours and ~~no authorized~~ shall not authorize refills.

SECTION 17. DO NOT CODIFY. The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Ninetieth General Assembly. All such acts shall have full force and effect and, so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts and as amending or repealing the appropriate parts of the Arkansas Code of 1987.

/s/D. Johnson