

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1916

By: Representative Perry

For An Act To Be Entitled

AN ACT TO PROMOTE THE RIGHT TO PRIVACY OF AN
AUTOMOBILE ACCIDENT VICTIM; TO ESTABLISH THE ARKANSAS
AUTOMOBILE ACCIDENT VICTIM PRIVACY SHIELD ACT; AND
FOR OTHER PURPOSES.

Subtitle

TO PROMOTE THE RIGHT TO PRIVACY OF AN
AUTOMOBILE ACCIDENT VICTIM; AND TO
ESTABLISH THE ARKANSAS AUTOMOBILE
ACCIDENT VICTIM PRIVACY SHIELD ACT.

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

SECTION 1. Arkansas Code Title 4, Chapter 88, is amended to add an additional subchapter to read as follows:

Subchapter 11 – Arkansas Automobile Accident Victim Privacy Shield Act

4-88-1101. Title.

This subchapter shall be known and may be cited as the "Arkansas Automobile Accident Victim Privacy Shield Act".

4-88-1102. Definitions.

As used in this subchapter:

(1) "Chiropractic procurer" means a healthcare marketer engaged in solicitation or attempted solicitation of an individual for treatment by a chiropractic physician;

(2) "Healthcare marketer" means an individual or entity that



conducts a solicitation, attempts to conduct a solicitation, or directs another individual to conduct a solicitation;

(3)(A) "Healthcare provider" means an individual who is licensed, certified, or otherwise authorized by the laws of this state to administer healthcare in the ordinary course of the practice of his or her profession.

(B) "Healthcare provider" includes without limitation:

(i) A chiropractic physician or sponsoring provider;

(ii) An osteopath;

(iii) A physical therapist;

(iv) A physician; or

(v) Any medical or healing arts provider;

(4) "Immediate family member" means an individual's parent, guardian, child, ward, foster child, sibling, stepchild, and stepparent;

(5) "Medical services" means the diagnosis, cure, mitigation, treatment, or prevention of any disease, injury, medical condition, or infirmity for the purpose of affecting any structure or function of the human body; and

(6)(A) "Solicitation" means direct contact with an individual by telephone, in-person, or by electronic means for the purpose of offering, referring, or inducing the individual to obtain medical services from a particular healthcare provider.

(B) "Solicitation" does not include:

(i) Advertising directly to the general public by public media;

(ii) Contact between a healthcare provider and an individual with whom the healthcare provider has a prior healthcare provider-patient relationship; or

(iii) Contact between a person and his or her immediate family member.

4-88-1103. Prohibited activities.

(a) A chiropractor, a chiropractic procurer, a healthcare provider, or a healthcare marketer violates this subchapter if, within the first thirty (30) days following a motor vehicle accident or disaster, the chiropractor, the chiropractic procurer, the healthcare provider, or the healthcare

marketer:

(1) Contacts the individual or immediate family member of an individual involved in a motor vehicle accident or disaster, either in person, by telephone, by mail, or by any electronic communication, for the purpose of soliciting the person for medical services;

(2) States, implies, or otherwise does one (1) of the following:

(A) Falsely communicates that he or she has an affiliation with an insurance company; or

(B) Communicates that an insurance company will not cover a claim if the person does not receive medical services, chiropractic treatment, services from a specific chiropractor or chiropractic practice group, or a specific healthcare provider or healthcare practice group;

(3) Pays, gives, or advances or offers to pay, give, or advance to a prospective client money or anything of value to encourage a person to obtain medical services with a specific chiropractor, chiropractic practice group, or with a specific healthcare provider or healthcare practice group;

(4) Pays, gives, or offers to pay or give a person money or something of value to solicit the person to seek medical services with a specific healthcare provider or healthcare practice group;

(5) Pays, gives, or offers to pay or give a family member of a prospective client money or anything of value to solicit a party to obtain medical services with a specific chiropractor or chiropractic practice group or with a specific healthcare provider or healthcare practice group; or

(6) Conveys a statement, idea, or perception that is deceptive or misleading for the purpose of soliciting the individual as a patient for a specific chiropractor, chiropractic practice group, or with a specific healthcare provider or healthcare practice group.

(b) A chiropractor or healthcare provider violates this subchapter if he or she provides treatment for a patient that was subject to a solicitation in a manner that violates this subchapter.

(c) A violation of this subchapter is a deceptive and unconscionable trade practice under § 4-88-107 and is subject to the penalties, remedies, and enforcement provided by § 4-88-101 et seq.