

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H4/5/19
A Bill

HOUSE BILL 1978

By: Representative Perry

For An Act To Be Entitled

AN ACT TO AMEND THE STATUTES CONCERNING PROCURERS; TO
REGULATE THE USE OF A PROCURER BY A LICENSED
CHIROPRACTIC PHYSICIAN; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE STATUTES CONCERNING
PROCURERS; AND TO REGULATE THE USE OF A
PROCURER BY A LICENSED CHIROPRACTIC
PHYSICIAN.

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

SECTION 1. Arkansas Code § 5-37-506(a)(1), concerning prohibited activities by a procurer or provider, is amended to add additional subdivisions to read as follows:

(C) States, implies, or otherwise communicates that:

(i) He or she has an affiliation with an insurance company;

(ii) Payment of an insurance claim or insurance coverage shall be available or otherwise affected by the individual's willingness to see a specific provider;

(iii) The Attorney General's office, the Arkansas State Board of Chiropractic Examiners, or any other regulatory or governmental agency has approved or is otherwise affiliated with the procurer; or

(iv) A specific medical facility is a preferred medical clinic or in-network provider for any purpose;



(D) Offers or gives anything of value or promises payment or a gift of any kind in connection with a solicitation contact;

(E) Uses a false name or identity during a solicitation;

(F) Provides or promises to provide a prescription or nonprescription medication or medical supplies, unless he or she is authorized to prescribe and treat as a licensed healthcare provider under state law;

(G) Attempts to solicit using a telephone number that is not registered with the board; or

(H) Makes any other statement that is deceptive or misleading within the context of a solicitation.

SECTION 2. Arkansas Code § 17-81-105(b)(2), concerning the prosecution of violations, is amended to read as follows:

(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.

SECTION 3. Arkansas Code § 17-81-106 is amended to read as follows:

17-81-106. Health and police regulations applicable.

~~Chiropractic practitioners~~ Physicians licensed under this chapter shall be bound by all applicable health and police regulations of the state. They shall be qualified to sign death certificates, insurance certificates, and all other certificates pertaining to public health with like effect as other licensed physicians.

SECTION 4. Arkansas Code § 17-81-107(a)(1)(A), concerning the definition of procurer, is amended to read as follows:

(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.

SECTION 5. Arkansas Code § 17-81-107(b), concerning use of a procurer by a physician, is amended to read as follows:

(b)(1) A ~~chiropractic~~ physician who uses a procurer is required to:
~~(1)(A)~~ Have a written contract with the procurer or procurement company with whom the ~~chiropractic~~ physician engages; and
~~(2)(B)~~ Register the name of any procurer with whom the ~~chiropractic~~ physician contracts with the Arkansas State Board of Chiropractic Examiners.

(2) In order to register a procurer, a physician shall file with the board the following information on a form approved by the board:

(A) The full legal name of the procurer with whom the physician has a current contract with and engages;

(B) A valid state-issued photo identification or driver's license, or both;

(C) The permanent home address of the procurer;

(D) The telephone number that the procurer shall use to make telephone calls to potential patients; and

(E) The name of the physician engaging the procurer, including address and telephone number of the physician.

(3)(A) The procurer registration expires on December 31 of each year.

(B) If a physician engages a procurer, a physician shall register a procurer annually.

(4) The physician shall provide the board with updated procurer registration information, should any of the information required under subdivision (b)(2) of this section change during the year.

SECTION 6. Arkansas Code § 17-81-107, concerning the use of a procurer by a chiropractic physician, is amended to add additional subsections to read as follows:

(c) A violation of this section shall result in the prohibition of a physician from attempting to collect fees for medical services from an individual named in a motor vehicle accident report.

(d) A procurer operating in this state shall:

(1) Develop a telephone solicitation training program for all employees or authorized representatives of the physician;

(2) Develop and maintain a solicitation script for use by all employees and authorized representatives of the procurer;

(3)(A) Make and keep accounts, correspondence, memoranda, papers, books, and other records for a period of at least five (5) years.

(B) The records described in subdivision (d)(3)(A) of this section include:

(i) The names and telephone numbers of individuals solicited;

(ii) The name of the physician with whom the procurer has contracted as required under subsection (b) of this section;

(iii) If solicitation contact with an individual is initiated due to a motor vehicle accident, the date and time of the motor vehicle accident;

(iv) The amount of compensation paid to a procurer for the solicitation with each actual or potential patient, customer, or client; and

(v) Any moneys shared by the procurer with other persons for conducting work as a procurer;

(4) Maintain a log of all training programs required under subdivision (d)(1) of this section that are provided to a procurer and the employees or authorized representatives of the physician that includes:

(A) The curriculum of any training program;

(B) The dates upon which any training program is provided;

and

(C) The signature of each individual participating in the training program and acknowledgment that he or she has completed the training program and agrees to perform the work of solicitation according to the training program; and

(5) Maintain all solicitations, advertisements, and advertising materials used by the procurer in soliciting the services of a physician.

(e) It is unlawful for a procurer to transact business in this state if the procurer has not met the contract and registration requirements under subsection (b) of this section.

(f) The board may adopt rules to implement this section.

(g)(1) A physician convicted of a Class D felony under § 5-37-505 or § 5-37-506 is subject to mandatory license revocation.

(2) A procurer convicted of a Class D felony under § 5-37-505 or § 5-37-506 is disqualified from transacting business in this state as a procurer under this subchapter.

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

(i)(1) Upon a finding by the board of a violation of this section, the board shall impose a fine of at least one thousand dollars (\$1,000).

(2) The fine imposed under subdivision (i)(1) of this section shall be submitted to the board.

/s/Perry