

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 472 of the Regular Session

1 State of Arkansas

As Engrossed: S2/9/09 S3/5/09

2 87th General Assembly

A Bill

3 Regular Session, 2009

SENATE BILL 239

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5 By: Senators Bledsoe, Horn

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8 **For An Act To Be Entitled**

9 AN ACT TO AUTHORIZE *PHYSICIANS AND PODIATRISTS* TO
10 DELEGATE THE PERFORMANCE OF SOME SIMPLE
11 PROCEDURES TO EMPLOYEES; AND FOR OTHER PURPOSES.

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13 **Subtitle**

14 AN ACT TO AUTHORIZE *PHYSICIANS AND*
15 *PODIATRISTS* TO DELEGATE THE PERFORMANCE
16 OF SOME SIMPLE PROCEDURES TO EMPLOYEES.

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

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21 *SECTION 1. Arkansas Code § 17-95-202 is amended to read as follows:*
22 *17-95-202. Definitions.*

23 *As used in the Arkansas Medical Practices Act, §§ 17-95-201 et seq.,*
24 *17-95-301 et seq., and 17-95-401 et seq.:*

25 (1) "Active" means actively engaged in the full-time practice of
26 medicine;

27 (2) "Board" means the Arkansas State Medical Board; and

28 (3) "Practice of medicine" means:

29 (A) Holding out one's self to the public within this state
30 as being able to diagnose, treat, prescribe for, palliate, or prevent any
31 human disease, ailment, injury, deformity, or physical or mental condition,
32 whether by the use of drugs, surgery, manipulation, electricity, or any
33 physical, mechanical, or other means whatsoever;

34 (B) Suggesting, recommending, prescribing, or
35 administering any form of treatment, operation, or healing for the intended



1 palliation, relief, or cure of any physical or mental disease, ailment,
2 injury, condition, or defect of any person with the intention of receiving,
3 either directly or indirectly, any fee, gift, or compensation whatsoever;

4 (C) Maintaining an office or other place to meet persons
5 for the purpose of examining or treating persons afflicted with disease,
6 injury, or defect of body or mind;

7 (D) Using the title "M.D.", "M.B.", "D.O.", "physician",
8 "surgeon", or any other word or abbreviation to indicate or induce others to
9 believe that one is engaged in the diagnosis or treatment of persons
10 afflicted with disease, injury, or defect of body or mind, except as
11 otherwise expressly permitted by the laws of this state relating to the
12 practice of any limited field of the healing arts; ~~or~~

13 (E) Performing any kind of surgical operation upon a human
14 being; or

15 (F) Delegating certain medical practices to other
16 personnel under rules adopted by the board.

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18 SECTION 2. Arkansas Code Title 17, Chapter 95, Subchapter 2 is amended
19 to add an additional section to read as follows:

20 17-95-208. Rules on physician's authority to delegate.

21 (a) The Arkansas State Medical Board shall adopt rules that establish
22 standards to be met and procedures to be followed by a physician with respect
23 to the physician's delegation of the performance of medical practices to a
24 qualified and properly trained employee who is not licensed or otherwise
25 specifically authorized by the Arkansas Code to perform the practice.

26 (b) The rules adopted under subsection (a) of this section shall
27 provide that:

28 (1) The delegating physician remains responsible for the acts of
29 the employee performing the delegated practice;

30 (2) The employee performing the delegated practice shall not be
31 represented to the public as a licensed physician, licensed nurse, licensed
32 physician's assistant, or other licensed healthcare provider; and

33 (3) Medical practices delegated under this section shall be
34 performed under the physician's supervision.

35 (c) Delegation of medical practices under this section may include
36 administration of drugs that do not require substantial specialized judgment

1 and skill based on knowledge and application of the principles of biological,
2 physical, and social sciences as determined by the board.

3 (d) Rules adopted regarding the delegation of the administration of
4 drugs shall provide for:

5 (1) The delegated administration of drugs only within the
6 physical boundaries of the delegating physician's offices;

7 (2) Evaluation of whether delegation is appropriate according to
8 the acuity of the patient involved;

9 (3) Training and competency requirements that shall be met by
10 the person administering the drugs; and

11 (4) Other standards and procedures the board considers relevant.

12 (e) The board shall not adopt rules that:

13 (1) Authorize a physician to transfer to a health professional
14 other than another physician the physician's responsibility for supervising a
15 delegated medical practice;

16 (2) Authorize an individual to whom a medical practice is
17 delegated to delegate the performance of that practice to another individual;

18 (3) Authorize a physician to delegate the administration of
19 anesthesia; or

20 (4) Conflict with a provision of the Arkansas Code that
21 specifically authorizes an individual to perform a particular practice.

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23 SECTION 3. Arkansas Code § 17-96-202(a)(3), concerning the authority
24 of the Arkansas Board of Podiatric Medicine to adopt rules, is amended to
25 read as follows:

26 (3)(A) The board shall make and adopt all necessary rules,
27 regulations, and bylaws necessary or convenient to perform its duties and to
28 transact business as required by law.

29 (B) The rules adopted under subdivision (a)(3)(A) of this
30 section shall authorize the delegation of certain medical practices to
31 persons other than podiatrists.

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33 SECTION 4. Arkansas Code Title 17, Chapter 96, Subchapter 2 is amended
34 to add an additional section to read as follows:

35 17-96-204. Rules on podiatrist's authority to delegate.

36 (a) The Arkansas Board of Podiatric Medicine shall adopt rules that

1 establish standards to be met and procedures to be followed by a podiatrist
2 with respect to the podiatrist's delegation of the performance of medical
3 practices to a qualified and properly trained employee who is not licensed or
4 otherwise specifically authorized by the Arkansas Code to perform the
5 practice.

6 (b) The rules adopted under subsection (a) of this section shall
7 provide that:

8 (1) The delegating podiatrist is responsible for the acts of the
9 employee performing the delegated practice;

10 (2) The employee performing the delegated practice shall not be
11 represented to the public as a licensed podiatrist, licensed nurse, licensed
12 podiatrist's assistant, or other licensed healthcare provider; and

13 (3) Medical practices delegated under this section shall be
14 performed under the podiatrist's supervision.

15 (c) Delegation of medical practices under this section may include
16 administration of drugs that do not require substantial specialized judgment
17 and skill based on knowledge and application of the principles of biological,
18 physical, and social sciences as determined by the board.

19 (d) Rules adopted regarding the delegation of the administration of
20 drugs shall provide for:

21 (1) The delegated administration of drugs only within the
22 physical boundaries of the delegating podiatrist's offices;

23 (2) Evaluation of whether delegation is appropriate according to
24 the acuity of the patient involved;

25 (3) Training and competency requirements that shall be met by
26 the person administering the drugs; and

27 (4) Other standards and procedures the board considers relevant.

28 (e) The board shall not adopt rules that:

29 (1) Authorize a podiatrist to transfer to a health professional
30 other than another physician the podiatrist's responsibility for supervising
31 a person who is performing a delegated medical practice;

32 (2) Authorize an individual to whom a medical practice is
33 delegated to delegate the performance of that practice to another individual;

34 (3) Authorize a podiatrist to delegate the administration of
35 anesthesia; or

36 (4) Conflict with a provision of the Arkansas Code that

1 specifically authorizes an individual to perform a particular practice.

2 /s/ Bledsoe

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APPROVED: 3/19/2009

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