

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 2574

"AN ACT TO REQUIRE THE ARKANSAS STATE MEDICAL BOARD TO POST IN ITS
WEBSITE THE NAMES OF PHYSICIANS WHO HAVE BEEN THE SUBJECT OF
MALPRACTICE COMPLAINTS, SETTLEMENTS, AND VERDICTS."

Amendment No. 1 to House Bill No. 2574.

Amend House Bill No. 2574 as originally introduced:

Immediately after SECTION 1, add the following additional SECTION:

"SECTION 2. Arkansas Code Title 20, Chapter 7 is amended to read as follows:

17-95-701. Definition.

For purposes of this subchapter:

(1) "Applicant" means a person applying for licensure by the Arkansas State Medical Board or the Arkansas State Board of Nursing;

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

(3) "Insurer" means malpractice insurance against legal liability of the insured and against loss, damage, or expense incidental to a claim of liability including medical, hospital, and surgical benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert or professional service; and

(4) "Practitioner" means a person licensed by the Arkansas State Medical Board or the Arkansas State Board of Nursing.

17-95-702. Practitioner profile data base.

(a) The Arkansas State Medical Board shall:

(1) Develop a website format to compile uniformly any information submitted under this subchapter;

(2) Compile information submitted under this subchapter into a practitioner profile of the applicant submitting the information;

(4) Make the practitioner profile available to the public through the World Wide Web and other commonly used means of distribution;

(3) Promulgate rules to implement the provisions of this subchapter; and

(4) Report to the appropriate licensing board any failure of a practitioner or applicant to provide information required under this



subchapter.

(b) The practitioner profile data base shall include, but not be limited to:

(1) A criminal history:

(A)(i) Listing any information required to be reported under § 20-7-403(7);

(ii) Indicating whether the information is or is not corroborated by a criminal history check conducted according to this subchapter;

(iii) Indicating whether the criminal information directly relates to the practitioner's ability to competently practice his or her profession; and

(iv) Including the statement: "The criminal history information, if any exists, may be incomplete; federal criminal history information is not available to the public."

(2)(A) Information relating to liability actions involving the practitioner within the previous ten (10) years reported to the board under § 20-7-404.

(B) The claims information shall be reported in the context of comparing an individual practitioner's claims to the experience of other practitioners within the same specialty, or profession if the practitioner is not a specialist, to the extent the information is available to the State Board of Health.

(C) The claims information shall also include the following statement: "Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the practitioner. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

(3)(A) Any other information that is a public record of any governmental entity and that relates to a practitioner's ability to competently practice his or her profession.

(B) However, the board shall consult with the appropriate licensing board before the information is included in his or her profile;

(4) The information required to be included in the data base under § 20-7-404.

(c) The board shall:

(1) Furnish the practitioner who is the subject of the profile a copy of the profile; and

(2) Allow the practitioner thirty (30) days to review the profile and to correct any factual inaccuracies.

(d) The practitioner profile data base may not include disciplinary action taken by a licensed hospital or an ambulatory surgical center.

17-95-703. Practitioner profiles.

(a) Each practitioner and applicant shall, in conjunction with the renewal or initial issuance of his or her license, furnish the following information to the Arkansas State Medical Board:

(1) The name of each professional school the practitioner or applicant has attended, including, but not limited to:

(A) The dates of attendance;

(B) The date of graduation; and

(C) A description of all graduate professional education completed by the practitioner or applicant, excluding any coursework taken to satisfy professional licensure continuing education requirements;

(2) The name of each hospital at which the practitioner or applicant has privileges or is employed;

(3) The address at which the practitioner or applicant will primarily conduct his or her practice;

(4) Any certification that the practitioner or applicant has received from a specialty board that is recognized by the practitioner or applicant's licensing board;

(5) The year that the practitioner began his or her licensed professional practice;

(6) Any appointment to the faculty of a professional school that the practitioner or applicant currently holds and an indication as to whether the practitioner or applicant has had the responsibility for professional education within the most recent ten (10) years; and

(7)(A) A description of any criminal offense for which the practitioner or applicant has been found guilty or has pled guilty or nolo contendere.

(B) A criminal offense committed in another jurisdiction that would have been a felony or misdemeanor if committed in this state shall be reported.

(C) If the practitioner or applicant indicates that a criminal offense is under appeal and submits a copy of the notice of appeal for that criminal offense, the board shall state that the criminal offense is under appeal if the criminal offense is reported in the practitioner or applicant's profile.

(D) If the practitioner or applicant indicates to the board that a criminal offense is under appeal, the practitioner or applicant shall, upon disposition of the appeal, submit to the board a copy of the final written order of disposition; and

(8)(A)(i) A description of any final disciplinary action taken within the previous ten (10) years against the practitioner or applicant by the agency regulating the profession that the applicant is or has been licensed to practice, whether in this state or in any other jurisdiction, by a specialty board that is recognized by the American Board of Medical Specialties, the American Osteopathic Association, or a similar national organization, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home.

(ii) However a final disciplinary action shall be reported by a hospital, prepaid health clinic, ambulatory surgical center, or nursing home only if the action resulted in the termination or revocation of a practitioner's hospital staff privileges for a medical disciplinary cause or reason.

(B) If the practitioner or applicant indicates that the disciplinary action is under appeal and submits a copy of the document initiating an appeal of the disciplinary action, the board shall state that the disciplinary action is under appeal if the disciplinary action is reported in the practitioner or applicant's profile.

(b) Each practitioner and applicant may submit additional information, including but not limited to:

(1) Information regarding publications in peer reviewed

professional literature within the previous ten (10) years;

(2) Ongoing professional research projects;

(3) Information regarding professional or community service activities or awards; and

(4) Languages, other than English, used by the practitioner or applicant to communicate with patients and identification of any translating service that may be available at the place where the practitioner primarily conducts his or her practice.

(c) Any practitioner or applicant who has been licensed or has sought to become licensed in a healing art in another state shall furnish to the board, for the other state or states, the information required under subsection (a) of this section.

(d)(1) The information required under subsection (a) of this section shall be updated at least annually.

(2) Information regarding a criminal offense for which the practitioner or applicant has been found guilty or has pled guilty or nolo contendere shall be reported to the board within thirty (30) days after the entry of the finding or plea.

17-95-704. Malpractice reports - Data reporting.

(a) Each insurer shall report to the State Insurance Department within thirty (30) days after a final disposition, any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of a practitioner or applicant's professional services or based on a claimed performance of professional services without consent, if the claim resulted in:

(1) A final judgment in any amount; or

(2) A settlement in any amount.

(b) Any practitioner or applicant who has been licensed or has sought to become licensed in a healing art in another state shall furnish to the State Insurance Department, for the other state or states, any information that would be required under subsection (a) of this section if the practitioner or applicant had been licensed or applied for licensure in this state.

(c) The State Insurance Department shall make available to the Arkansas State Medical Board the reports required under subsection (a) of this section.

(d)(1) The board shall review each report and determine whether any of the incidents that resulted in the claim potentially involved conduct by the practitioner or applicant that is subject to disciplinary action.

(2) If the board determines that disciplinary action may be required, the board shall make the report available to appropriate licensing board.

(e) The board shall include in the data base established by this subchapter statistical analyses of the reports it receives from the State Insurance Department.

(f) The board shall include in the data base established by this subchapter from reports received from the State Insurance Department for each reported claim:

(1) The name, address, and specialty coverage of the insured;

(2) The insured's policy number;

(3) The date of the occurrence which created the claim;

(4) The date the claim was reported to the insurer;
(5) The date of suit, if filed;
(6) The injured person's age and sex;
(7) The total number and names of all defendants involved in the claim;

(8) The date and amount of judgment or settlement, including the itemization of the verdict, together with a copy of the settlement or judgment;

(9) In the case of a settlement, such information as the department may require with regard to the injured person's incurred and anticipated medical expense, wage loss, and other expenses, without identifying the injured person;

(10) The loss adjustment expense paid to defense counsel, and all other allocated loss adjustment expense paid; and

(11) A summary of the occurrence which created the claim, without identifying the patient, including, but not limited to:

(A) The name of the institution, if any, and the location within the institution at which the injury occurred;

(B) The final diagnosis for which treatment was sought or rendered, including the patient's actual condition;

(C) A description of the misdiagnosis made, if any, of the patient's actual condition;

(D) The operation, diagnostic, or treatment procedure causing the injury;

(E) A description of the principal injury giving rise to the claim;

(F) The safety management steps that have been taken by the insured to make similar occurrences or injuries less likely in the future; and

(G) Any other information required by the board to analyze and evaluate the nature, causes, location, cost, and damages involved in professional liability cases.

(g) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer reporting under this section nor its agents or employees for any action taken by them under this section.

(h) There shall be no liability on the part of, and no cause of action shall arise against, the executive director or any other permanent or temporary personnel or professional medical investigators for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this subchapter.

17-95-705. Penalties.

(a) The Arkansas State Medical Board and the Arkansas State Board of Nursing may:

(1) Refuse to issue a license to an applicant who fails to submit the information required under this subchapter;

(2) Suspend the license of any practitioner who fails to update the information required under this subchapter; and

(3) Assess a fine not to exceed fifty dollars (\$50.00) for each day a practitioner fails to submit or update the information required under this subchapter.

(b) The State Insurance Department may impose a fine of two hundred

fifty dollars (\$250) per day per case, but not to exceed two thousand dollars (\$2,000) per case, against an insurer that violates the requirements of this section."

The Amendment was read _____

By: Representative Ledbetter

MGF/CDW - 032720031550

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Chief Clerk