

1 State of Arkansas *As Engrossed: H3/10/17 H3/17/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 1718

4

5 By: Representative D. Ferguson

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For An Act To Be Entitled

8

AN ACT TO CREATE THE PATIENT RIGHT-TO-KNOW ACT; TO

9

PROVIDE FOR ACCESS BY PATIENTS AND THEIR *HEALTHCARE*

10

PROVIDERS TO CONTACT INFORMATION; TO DECLARE AN

11

EMERGENCY; AND FOR OTHER PURPOSES.

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Subtitle

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TO CREATE THE PATIENT RIGHT-TO-KNOW ACT;

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TO PROVIDE FOR ACCESS BY PATIENTS AND

17

THEIR HEALTHCARE PROVIDERS TO CONTACT

18

INFORMATION; AND TO DECLARE AN EMERGENCY.

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

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23 SECTION 1. Arkansas Code Title 20, Chapter 6, is amended to add an
24 additional subchapter to read as follows:

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Subchapter 2 – Patient Right-to-Know Act

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27 20-6-201. Title.

28

This subchapter shall be known and may be cited as the "Patient Right-
29 to-Know Act".

30

31 20-6-202. Legislative findings and purpose.

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(a) The General Assembly finds that:

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(1) Patients are entitled to continuity of care with their
34 healthcare providers;

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(2) Healthcare providers are prohibited legally and ethically
36 from abandoning a patient before treatment has been concluded;



1 (3) When a *healthcare provider* changes practice locations, steps
2 are necessary to ensure that patient's continuity of care and the legal and
3 ethical obligations of the *healthcare provider* are fulfilled; and

4 (4) Patients should be informed about any change in the practice
5 location of their treating *healthcare provider* and should not be prevented
6 from receiving this type of information.

7 (b) The purpose of this subchapter is to remove and prevent
8 impediments to patients maintaining continuity of care and keeping their
9 treatment relationship with their chosen *healthcare provider*.

10
11 20-6-203. Definitions.

12 As used in this subchapter:

13 (1)(A) "*Entity*" means any person, organization, or business
14 entity of any type that engages a *healthcare provider* as an employee,
15 independent contractor, member, or in any other capacity for the practice of
16 medicine as defined in § 17-95-202.

17 (B) "*Entity*" does not include insurance companies, health
18 maintenance organizations, or hospital and medical service corporations;

19 (2)(A) "*Existing patient*" means a person who is seen for a medical
20 diagnosis or treatment, or both, by a *healthcare provider* within the previous
21 twelve (12) months as evidenced by an entry in the medical record of the
22 patient.

23 (B) The twelve-month period described in subdivision
24 (2)(A) of this section shall be calculated by counting back twelve (12)
25 months from the later of the following dates:

26 (i) The date that the *healthcare provider's*
27 relationship with the entity terminates; or

28 (ii) The date that the *healthcare provider* gave the
29 entity notice of a new practice location; and

30 (3) "*Healthcare provider*" means a person who:

31 (A) Is licensed by:

32 (i) The Arkansas State Medical Board;

33 (ii) The Arkansas State Board of Dental Examiners;

34 (iii) The Arkansas State Board of Nursing;

35 (iv) The Arkansas State Board of Chiropractic

36 Examiners;

1 (v) The Arkansas Board of Podiatric Medicine; or
2 (vi) The State Board of Optometry; and
3 (B) Has ultimate responsibility and legal liability for
4 the care of the patient.

5 20-6-204. Prohibited conduct.

6 (a) If the healthcare provider has made new practice location
7 information or new contact information available to the entity, an entity or
8 person on behalf of an entity shall not:

9 (1) Mislead any patient about the new practice location of a
10 healthcare provider or new contact information of a healthcare provider; or

11 (2) Fail to provide a patient with the new practice location of a a
12 healthcare provider or new contact information of a healthcare provider when
13 requested.

14 (b)(1) When requested by a healthcare provider who is relocating his
15 or her practice, an entity with a relationship with healthcare provider shall
16 within twenty-one (21) calendar days:

17 (A) Provide the healthcare provider with a list of the
18 healthcare provider's existing patient names and addresses;

19 (B) Send a notice with the new practice location
20 information to all of the healthcare provider's existing patients after
21 providing the healthcare provider a copy of the proposed notice for review
22 and comment; or

23 (C)(i) Post the new practice location information of the
24 healthcare provider on the website of the entity after providing the
25 healthcare provider a copy of the proposed posting for review and comment.

26 (ii) The posting shall remain on the website of the
27 entity for twelve (12) months after the healthcare provider's last day of
28 employment with the entity posting the information.

29 (2) Within two (2) business days of the request described in
30 subdivision (b)(1) of this section, the entity shall provide the healthcare
31 provider with a list or schedule of upcoming patient appointments with the
32 healthcare provider and the contact information of the patients.

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34 20-6-205. Affirmative defense in medical injury cases.

35 If a patient abandonment or other medical injury occurs due to a
36 violation by an entity of this subchapter, the violation shall be an

1 affirmative defense for the physician in a claim brought by the injured
2 patient who shall be entitled to bring a claim against the entity.

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4 20-6-206. Injunctive relief.

5 (a) An affected patient or *healthcare provider* may file an action
6 seeking an injunction of a violation of this subchapter in the circuit court
7 of:

8 (1) Pulaski County;

9 (2) The county in which the *healthcare provider* has his or her
10 practice located;

11 (3) The county in which the affected patient resides; or

12 (4) The county in which the entity is located.

13 (b) Upon the filing of a complaint, the court may issue a temporary
14 injunction on the violation without notice or bond.

15 (c) If the plaintiff patient or *healthcare provider* establishes that
16 this subchapter has been violated, the court may enter an order permanently
17 enjoining the violation of this subchapter or otherwise enforcing compliance
18 with this subchapter.

19 (d) A prevailing plaintiff shall be entitled to:

20 (1) The greater of liquidated damages in the amount of one
21 thousand dollars (\$1,000) per day per violation, or actual damages; and

22 (2) Reasonable attorney's fees and costs.

23 (e) A violation of this subchapter shall constitute an unfair and
24 deceptive act or practice as defined under the Deceptive Trade Practices Act,
25 § 4-88-101 et seq.

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27 20-6-207. Applicability – Construction.

28 (a) This subchapter:

29 (1) Applies to any express or implied contract, agreement, or
30 understanding entered into, renewed, modified, or extended on or after the
31 effective date of this subchapter; and

32 (2) Does not amend or repeal any portion of the Medical
33 Corporation Act, § 4-29-301 et seq., or the Dental Corporation Act, § 4-29-
34 401 et seq.

35 (b) Any purported waiver of the benefits or requirements of this
36 subchapter is void and against the public policy of this state.

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2 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
3 General Assembly of the State of Arkansas that *healthcare providers* are often
4 unable to obtain information about their patients when the *healthcare*
5 *providers terminate* relationships with certain entities and relocate their
6 practices; that patients are often unable to locate their *healthcare*
7 *providers* due to efforts by certain entities to hinder access; that the
8 Patient Right-to-Know Act will prohibit this activity and require certain
9 entities to inform patients of the new practice location and new contact
10 information of their *healthcare providers*; and that this act is immediately
11 necessary to ensure continuity of care and prevent disruption of *healthcare*
12 *provider-patient* relationships. Therefore, an emergency is declared to exist,
13 and this act being immediately necessary for the preservation of the public
14 peace, health, and safety shall become effective on:

15 (1) The date of its approval by the Governor;

16 (2) If the bill is neither approved nor vetoed by the Governor,
17 the expiration of the period of time during which the Governor may veto the
18 bill; or

19 (3) If the bill is vetoed by the Governor and the veto is
20 overridden, the date the last house overrides the veto.

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22 /s/D. Ferguson

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25 **APPROVED: 03/30/2017**