

1 State of Arkansas As Engrossed: S4/19/21 H4/26/21

2 93rd General Assembly

# A Bill

3 Regular Session, 2021

SENATE BILL 617

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5 By: Senators Rapert, Bledsoe, Caldwell, Elliott, K. Hammer, K. Ingram, Irvin

6 By: Representatives M. Gray, M. Davis, Evans, D. Ferguson, V. Flowers, M. Hodges, L. Johnson,

7 Murdock

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## For An Act To Be Entitled

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AN ACT TO REQUIRE WRITTEN CONSENT OF A PATIENT TO

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TRANSFER A PRESCRIPTION FROM A PHARMACY; TO REQUIRE

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DISCLOSURE BY A PHARMACY BENEFITS MANAGER, HEALTHCARE

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INSURER, PHARMACY, PHARMACIST, PHYSICIAN, OR HOSPITAL

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OF OWNERSHIP INTEREST OR POSSIBLE CONFLICTS OF

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INTEREST; TO PROHIBIT DATA MINING OF PATIENT

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INFORMATION BY PHARMACY BENEFITS MANAGERS, HEALTHCARE

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INSURERS, PHARMACIES, AND PHARMACISTS; AND FOR OTHER

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PURPOSES.

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## Subtitle

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TO REQUIRE WRITTEN CONSENT OF A PATIENT

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TO TRANSFER A PRESCRIPTION FROM A

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PHARMACY; TO REQUIRE CERTAIN DISCLOSURES

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OF OWNERSHIP INTEREST OR POSSIBLE

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CONFLICTS OF INTEREST; AND TO PROHIBIT

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DATA MINING OF PATIENT INFORMATION.

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

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SECTION 1. Arkansas Code Title 17, Chapter 92, Subchapter 1, is

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amended to add an additional section to read as follows:

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17-92-118. New prescription requests and new refill requests from

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prescriber.

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(a) A pharmacy, pharmacist, employee of a pharmacy, or entity who owns



1 or controls, is owned or controlled by, or is under ownership or control with  
2 an insurance company, health clinic, rural health center, federally qualified  
3 health center, pharmacy benefits manager, pharmaceutical manufacturer,  
4 pharmaceutical wholesaler, or pharmacy benefits manager affiliate shall not  
5 request or solicit:

6 (1) Refill requests for prescription medications from a  
7 prescriber for a patient who has not previously filled prescriptions with the  
8 pharmacy without express written consent for each individual prescription  
9 requested; or

10 (2) New prescription medications from a prescriber for a patient  
11 who has not previously filled prescriptions with the pharmacy without express  
12 written consent for each individual prescription requested.

13 (b)(1) When a physician or other licensed prescriber authorizes or  
14 provides new prescriptions or refill medications to a pharmacy that is not  
15 physically located in this state or to a pharmacy that utilizes common  
16 carriers to deliver medications through the mail for a new patient who has  
17 not previously received pharmacist services or prescriptions filled through  
18 that pharmacy, that pharmacy shall:

19 (A) Establish a professional relationship between a  
20 pharmacist and the patient by telephone or telemedicine consult;

21 (B) Obtain express consent to provide pharmacist services  
22 before any prescription medication being processed, filled, mailed, or  
23 delivered to a patient; and

24 (C) Include communication to the patient about:

25 (i) The address and physical city and state of the  
26 pharmacy;

27 (ii) The name of the licensed pharmacist who will be  
28 providing services;

29 (iii) The telephone number and website for the  
30 pharmacy;

31 (iv) Expectations for time of delivery of  
32 prescription medications; and

33 (v) Disclosure of any conflicts of interest  
34 including common ownership of the pharmacy by a health care insurer, pharmacy  
35 benefit manager, medical clinic, federal qualified health center, rural  
36 health center, hospital, pharmaceutical wholesaler, or pharmaceutical

1 manufacturer.

2 (2) If the conditions within subdivision (b)(1) of this section  
3 are not met, then the pharmacy and pharmacist shall not fill, bill, dispense,  
4 or mail any prescription medications to the patient.

5 (c) This section does not prohibit:

6 (1) A physician licensed in this state or any other prescriber  
7 licensed in this state from issuing new prescriptions or prescription refills  
8 to any licensed pharmacy in this state or out of state that a patient wishes  
9 to use; or

10 (2) A pharmacy licensed in this state or out of this state from  
11 requesting prescription transfers from another licensed pharmacy as directed  
12 by a patient.

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14 SECTION 2. Arkansas Code Title 17, Chapter 92, Subchapter 4, is  
15 amended to add an additional section to read as follows:

16 17-92-413. Disclosure of ownership interest or possible conflicts of  
17 interest required – Prohibition on data mining.

18 A pharmacy, pharmacist, physician, employee, or entity who owns or  
19 controls, is owned or controlled by, or is under ownership or control with an  
20 insurance company, health clinic, hospital, rural health center, federally  
21 qualified health center, pharmacy benefits manager, pharmaceutical  
22 manufacturer, pharmaceutical wholesaler, or pharmacy benefits manager that  
23 provides a pharmacy benefits plan or program, including prescription drug  
24 coverage, or contracts with a third party for prescription drug services  
25 under a health benefit plan shall:

26 (1) Disclose to the consumer any ownership interest or possible  
27 conflicts of interest with a pharmacy benefits manager, healthcare insurer,  
28 or healthcare payor; and

29 (2) Not access and utilize patient information including either  
30 medical information in patient charts or billing claims information to market  
31 or contact patients in order to solicit the transfer of the patient to a  
32 particular pharmacy.

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34 /s/Rapert