

**ARKANSAS SENATE**  
89th General Assembly - Regular Session, 2013  
**Amendment Form**

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Subtitle of Senate Bill No. 887

TO ESTABLISH THE ARKANSAS PEER REVIEW FAIRNESS ACT.

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**Amendment No. 1 to Senate Bill No. 887**

Amend Senate Bill No. 887 as originally introduced:

Page 2, delete lines 13 through 15 and substitute the following:

"(2) "Investigation" means a process conducted by a hospital's medical staff to determine the validity, if any, of a concern or complaint raised against a physician or other practitioner who is a member of the medical staff of a hospital that adversely affects or may adversely affect hospital staff membership or clinical privileges of the physician or other practitioner;"

AND

Page 3, delete lines 9 through 36

AND

Page 4, delete lines 1 through 36

AND

Page 5, delete lines 1 through 7 and substitute the following:

"20-9-1304. Due process in peer review activity.

(a) The stages of a peer review activity may include without limitation, an investigation, a hearing, and an appeal.

(b) At every stage of a peer review activity:

(1) The physician or other practitioner and the medical staff conducting the peer review activity may be represented by legal counsel;

(2) An attorney representing the medical staff or serving as the hearing officer or arbitrator may not be from a firm regularly utilized by the hospital;

(3) The medical staff shall choose its own legal counsel, regardless of who may pay or otherwise retain the counsel;

(4) When choosing a hearing officer, a hospital shall appoint individuals chosen from among recommendations by the medical staff;

(5)(A) When choosing a hearing panel, the hospital shall appoint individuals from among those medical staff members recommended by the medical



staff executive committee.

(B) If it is not feasible to appoint a hearing panel from the medical staff, then physicians or other members of the same profession as the respondent who are not members of the medical staff may serve;

(6) The individual or individuals conducting a peer review activity shall be impartial, shall gain no direct financial benefit from the outcome of the peer review activity, and shall not otherwise be in competition with the physician or other practitioner who is the subject of the peer review activity;

(7) The individual or individuals conducting a peer review activity shall not have actively participated in an earlier stage of the peer review activity, with the exception of hearing officers;

(8) The physician or other practitioner who is the subject of a peer review activity shall be given the opportunity to appear before the individual or individuals conducting a peer review activity before any recommendation or decision that adversely affects, or may adversely affect, the physician or practitioner;

(9) The physician or practitioner shall be offered a reasonable opportunity to challenge the impartiality of any individual or individuals conducting a peer review activity;

(10) Knowledge of the matter does not preclude an individual from participating in a peer review activity; and

(11) The hospital shall provide all relevant information to the individual or individuals conducting a peer review activity, whether inculpatory or exculpatory to the practitioner or the hospital.

(c) Unless the physician or practitioner who is the subject of the peer review activity makes a credible allegation that the hospital's actions contributed to the matter under review, the medical staff, upon written notice to the hospital, may waive the requirement in subdivision (b)(2) of this section that the attorney representing the medical staff not be from a firm regularly utilized by the hospital."

AND

Page 5, line 9, delete "20-9-1309" and substitute "20-9-1305"

AND

Page 5, line 14, delete "20-9-1310" and substitute "20-9-1306"

AND

Page 5, delete lines 17 through 20 and substitute the following:

"(b) If the practitioner prevails on appeal to court, the practitioner shall be entitled to reasonable attorney's fees and costs as determined by the court and to the extent not prohibited by federal law."

AND

Page 5, line 22 delete "20-9-1311" and substitute "20-9-1307"

AND

Page 5, line 26, delete "20-9-1312" and substitute "20-9-1308"

AND

Page 5, line 31, delete "20-9-1313" and substitute "20-9-1309"

AND

Page 6, line 3, add the following:

"20-9-1310. Summary suspensions.

(a) If failure to take a peer review action may result in an imminent danger to the health of any individual, the hospital may immediately suspend or restrict the medical staff membership or clinical privileges of a practitioner.

(b) If an action is taken under subsection (a) of this section, the hospital shall follow all the other provisions of this subchapter as soon as practicable following the suspension or restriction.

20-9-1311. Immunity.

This subchapter is not intended to abrogate the immunity provided under the Healthcare Quality Improvement Act, 42 U.S.C. §§ 11101-11152 or under § 17-1-102 or § 20-9-501 et seq."

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Bledsoe

MGF/NJR - 03-13-2013 09:41:38

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Secretary