

ARKANSAS SENATE
91st General Assembly - Regular Session, 2017
Amendment Form

Subtitle of Senate Bill No. 611

TO AMEND ARKANSAS PEER REVIEW FAIRNESS ACT; AND TO DECLARE AN EMERGENCY.

Amendment No. 1 to Senate Bill No. 611

Amend Senate Bill No. 611 as originally introduced:

Page 1, delete line 8, and substitute the following:
"AN ACT TO AMEND THE ARKANSAS PEER REVIEW FAIRNESS ACT TO"

AND

Delete the subtitle in its entirety and substitute:

"TO AMEND THE ARKANSAS PEER REVIEW
FAIRNESS ACT; AND TO DECLARE AN
EMERGENCY."

AND

Page 1, line 33, delete "between hospital administration and" and substitute
"between the hospital and"

AND

Page 6, delete line 9, and substitute the following:
"another physician."

AND

Page 7, delete line 29, and substitute the following:
"(1) Abrogate the immunity ~~abrogate the immunities or~~
~~confidentiality~~"

AND

Page 7, delete line 32, and substitute the following:
"§ 17-1-102, or § 20-9-501 et seq.; or"

AND



Page 8, delete lines 10 through 20, and substitute the following:

"(c)(1)(A) If the professional review body decides to use an external review during the investigation, physicians serving on the professional review body that is conducting the investigation are responsible for selecting any external reviewers and the method of selecting cases for review.

(B) However, the physicians serving on the professional review body may seek input regarding the selection described under subdivision (c)(1)(A) of this section from the physician under review or other individuals.

(2) The physician under review shall be included on any substantive communications by any party with the external reviewers selected under subdivision (c)(1)(A) of this section."

AND

Page 9, delete lines 10 through 32, and substitute the following:

"(3)(A) The medical staff bylaws shall govern the appointment of members of a hearing panel subject to the requirements of this subsection.

(B) The members of a hearing panel may be members of the medical staff of the hospital.

(C) The members of the hearing panel shall:

(i) Disclose any potential conflicts of interest before the hearing; and

(ii) Agree to exercise unbiased, independent, and professional judgment when evaluating the competence or professional conduct of the physician under review.

(4)(A) A physician under review shall have a reasonable opportunity to raise the issue of a potential conflict of interest or other concern related to a hearing officer, arbitrator, or member of a hearing panel.

(B) The medical staff bylaws shall establish a process for considering and resolving any potential conflicts of interest."

AND

Page 9, line 33, delete "(d)(1)" and substitute "(c)(1)"

AND

Page 10, delete lines 1 through 6, and substitute the following:

"(2) In advance of the hearing, the hospital administration, professional review body, and the physician under review shall disclose all relevant information to each other."

AND

Page 10, line 7, delete "(e)" and substitute "(d)"

AND

Page 10, line 14, delete "(f)" and substitute "(e)"

AND

Page 10, line 21, delete "(g)" and substitute "(f)"

AND

Page 10, line 24, delete "(h)" and substitute "(g)"

AND

Page 10, line 25, delete "arises shall" and substitute "arises during the hearing process shall"

AND

Page 10, delete lines 26 through 36, and substitute the following:
"hearing panel.

20-9-1311. Nonwaivable.

(a) Unless part of a mutually agreed upon mediation or settlement, a provision in an agreement, policy, procedure, or contract, including bylaws, that purports to waive any provision of this subchapter is void.

(b) However, the time periods for compliance with procedural requirements may be waived by mutual consent of the parties on a case by case basis.

20-9-1312. Applicability.

On and after the effective date of this subchapter, this subchapter shall apply to any investigation or professional review activity at any stage.

SECTION 7. Arkansas Code Title 20, Chapter 9, Subchapter 13, is amended to add an additional section to read as follows:

20-9-1313. Remedy.

(a) Within sixty (60) days of a final decision that adversely affects a physician, a physician may file a petition to remedy a violation of this subchapter by filling the petition in:

(1) The circuit court of the county in which the professional review activity occurred; or

(2) The circuit court of an adjoining county."

AND

Page 11, delete line 1

AND

Page 11, line 2, delete "(c)(1)" and substitute "(b)(1)"

AND

Page 11, delete line 20, and substitute the following:

"(c) Except as provided in subsection (e) of this section, the court"

AND

Page 11, line 23, delete "(e)(1)" and substitute "(d)(1)"

AND

Page 11, line 30, delete "(f)" and substitute "(e)"

AND

Page 12, line 1, delete "(g)(1)" and substitute "(f)(1)"

AND

Page 12, delete lines 2 through 4, and substitute the following:

"other remedy available under law to a physician."

AND

Page 12, delete lines 8 through 19

AND

Page 12, line 21, delete "SECTION 7." and substitute "SECTION 8."

AND

Page 12, line 28, delete "SECTION 8." and substitute "SECTION 9."

AND

Page 12, delete lines 30 through 36, and substitute the following:

"participants in medical staff peer review proceedings will continue to be confused and uncertain as to what remedies are available to address an unfair peer review proceeding and the scope of judicial review; that the standards established in SECTION 7 of this act will help remedy the confusion and uncertainty, prevent harm to physicians and physician-patient relationships, and promote fair independent medical judgment; and that SECTION 7 of this act is immediately necessary to provide a fair process to the physician under review while still providing immunity to individuals serving on professional review"

AND

Page 13, line 1, delete "this act" and substitute "SECTION 7 of this act"

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

By: Senator Bledsoe

JMB/JMB - 03-17-2017 15:44:44

JMB496

Secretary