

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: H3/17/99 H3/19/99 S4/7/99

# A Bill

HOUSE BILL 2253

5 By: Representative Gullett  
6  
7

## For An Act To Be Entitled

9 "AN ACT TO REPEAL § 17-95-105 AND TO AUTHORIZE THE  
10 ARKANSAS STATE MEDICAL BOARD TO ESTABLISH A  
11 CREDENTIALING INFORMATION SYSTEM AND TO PROVIDE SUCH  
12 CREDENTIALING INFORMATION TO CREDENTIALING  
13 ORGANIZATIONS; AND FOR OTHER PURPOSES. "  
14

## Subtitle

15 "TO AUTHORIZE THE ARKANSAS STATE MEDICAL  
16 BOARD TO ESTABLISH A CREDENTIALING  
17 INFORMATION SYSTEM. "  
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19  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code § 17-95-105 is hereby repealed.

24 ~~§ 17-95-105. Providing information to credentialing organization.~~

25 ~~[Expires July 1, 1999.]~~

26 ~~(a) The purpose of this section is to allow the Arkansas State Medical~~  
27 ~~Board to provide information to credentialing organizations.~~

28 ~~(b) For purposes of this section:~~

29 ~~(1) "Accrediting organization" means an organization which awards~~  
30 ~~accreditation to hospitals, managed care organizations, or other health care~~  
31 ~~organizations, including, but not limited to, the Joint Commission on the~~  
32 ~~Accreditation of Health Care Organizations and the National Committee on~~  
33 ~~Quality Assurance;~~

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

35 ~~(3) "Credentialing organization" means a health care organization~~  
36 ~~that uses a process to collect and verify information pursuant to licensure~~

1 ~~and accreditation rules and regulations concerning the professional background~~  
2 ~~of the health care provider who is applying for practice privileges before~~  
3 ~~allowing that provider to practice in affiliation with that organization and~~  
4 ~~defining the type and extent of the provider's privileges in the credentialing~~  
5 ~~organization; and~~

6 ~~(4) "Primary source verification procedure" means the procedure~~  
7 ~~used by a credentialing organization to ensure the truth and accuracy of~~  
8 ~~documents and information submitted to it by a provider who is applying for~~  
9 ~~practice privileges with the credentialing organization.~~

10 ~~(c)(1) The board may provide to any credentialing organization any~~  
11 ~~information the board collects concerning any person licensed by the board, if~~  
12 ~~the person authorizes release of the information.~~

13 ~~(2) The board shall promulgate regulations establishing a~~  
14 ~~credentialing information system, and such regulations shall indicate the~~  
15 ~~procedures for collection and release of credentialing information under this~~  
16 ~~section.~~

17 ~~(3) The board shall appoint a ten-member advisory group to assist~~  
18 ~~it with the adoption of policies and regulations concerning the credentialing~~  
19 ~~information system. Credentialing organizations shall have representation on~~  
20 ~~the advisory group.~~

21 ~~(4) Credentialing information received and collected by the board~~  
22 ~~and furnished by the board to a credentialing organization shall be~~  
23 ~~confidential in nature and shall be used solely for credentialing and the~~  
24 ~~renewal of credentials. The board may disclose such credentialing information~~  
25 ~~as provided in this subdivision and;~~

26 ~~(A) In disciplinary hearings before the board or in any~~  
27 ~~subsequent trial or appeal of a board action or order, or~~

28 ~~(B) To any physician licensing or disciplinary authorities~~  
29 ~~of other jurisdictions, or~~

30 ~~(C) Pursuant to an order of a court of competent~~  
31 ~~jurisdiction.~~

32 ~~(5) The board may enter into contractual agreements with users of~~  
33 ~~the credentialing information system to define the type and form of~~  
34 ~~information to be provided and to give users assurances of the integrity of~~  
35 ~~the information collected.~~

36 ~~(6) The board may charge credentialing organizations a reasonable fee~~

1 ~~for the use of the credentialing service. The fee shall be set in consultation~~  
2 ~~with the advisory group and shall be set at such rate as will reimburse the~~  
3 ~~board for the cost of maintaining the credentialing information system.~~

4 ~~(d)(1) In lieu of testing information by its own primary source~~  
5 ~~verification procedure, a credentialing organization may rely upon~~  
6 ~~credentialing information from the board, if the board certifies that the~~  
7 ~~information provided by the board has been tested by the board's primary~~  
8 ~~source verification procedure.~~

9 ~~(2) No accrediting organization may require a credentialing~~  
10 ~~organization to perform its own primary source verification or maintain copies~~  
11 ~~of information provided by the board if that credentialing organization~~  
12 ~~utilizes the credentialing information and primary source verification~~  
13 ~~services provided by the board.~~

14 ~~(e)(1) Hospitals which utilize the credentialing information system~~  
15 ~~offered by the Arkansas State Medical Board shall not attempt to collect~~  
16 ~~duplicate information from individual physicians or originating sources.~~

17 ~~(2) The board may seek an injunction against any hospital~~  
18 ~~violating or attempting to violate this subsection and shall be entitled to~~  
19 ~~recover attorney's fees and court costs involved in obtaining the injunction.~~

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21 SECTION 2. (a) The purpose of this act is to allow the Arkansas State  
22 Medical Board to provide information to credentialing organizations.

23 (b) For purposes of this act:

24 (1) "Accrediting organization" means an organization which  
25 awards accreditation or certification to hospitals, managed care  
26 organizations, or other health care organizations, including, but not limited  
27 to, the Joint Commission on the Accreditation of Health Care Organizations and  
28 the National Committee on Quality Assurance;

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

30 (3) "Credentialing information" means information regarding a  
31 physician's professional training, qualifications, background, practice  
32 history, and experience, i.e. status of medical license; clinical hospital  
33 privileges; status of Drug Enforcement Administration certificate; education,  
34 training and board certification; work history; current malpractice coverage;  
35 history of professional liability or malpractice claims; drug or alcohol abuse  
36 to the extent permitted by law; history of board appearances; loss, surrender,

1 restriction or suspension of license; felony convictions; history of loss or  
2 limitation of privileges or disciplinary activity; attestation of the  
3 correctness and completeness of the application; history of Medicare or  
4 Medicaid or other sanctions; and other objective information typically  
5 required by accrediting organizations for the purpose of credentialing  
6 physicians.

7 (4) "Credentialing organization" means a hospital, clinic, or  
8 other health care organization, managed care organization, insurer or health  
9 maintenance organization.

10 (5) "Primary source verification procedure" means the procedure  
11 used by a credentialing organization to test the accuracy of documents and  
12 credentialing information submitted to it by or about a physician who is  
13 applying for affiliation or participation with the credentialing organization.  
14 This procedure involves the verification of credentials with the originating  
15 source of the credentials.

16 (c)(1) All physicians licensed by the board shall submit such  
17 credentialing information as the board may request so that the board may  
18 verify said information by the primary source verification procedure in order  
19 to make such information available to credentialing organizations. If the  
20 physician should fail to submit such information as the board requests within  
21 a period of thirty (30) days, said failure can result in the suspension of the  
22 physician's license to practice medicine in the State of Arkansas after said  
23 matter is presented to the full board for a hearing pursuant to the  
24 Administrative Procedure Act.

25 (2) Any credentialing organization shall submit such  
26 credentialing information as they have in their possession to the board in  
27 order to complete the primary source verification procedure, upon the board's  
28 request, and upon the board providing proof that the physician has authorized  
29 the release of said information. The failure of the organization to release  
30 said information to the board shall be grounds to have the license to do  
31 business in the State of Arkansas suspended upon the board presenting said  
32 proof to the licensing agency of that organization.

33 (3) Credentialing organizations may utilize credentialing  
34 information provided by the board and verified by the primary source  
35 verification procedure of the board to evaluate the following:

36 (A) Granting or denying the application of a physician for

1 affiliation or participation within the organization or its networks;

2 (B) The quality of services provided by a physician or the  
3 physician's competency or qualifications; and

4 (C) Renewal of the affiliation or participation of the  
5 physician; or

6 (D) the type, extent or conditions of the physician's  
7 privileges or participation in the network.

8 (d)(1) The board shall provide to any credentialing organization any  
9 credentialing information the board collects concerning any person licensed by  
10 the board, if the person authorizes release of the information. If any person  
11 fails or refuses for any reason to authorize release of credentialing  
12 information, the requesting credentialing organization shall be entitled, on  
13 grounds of such refusal, to exclude such person from any privileges, contract  
14 or network of the credentialing organization.

15 (2) The board shall promulgate regulations establishing a  
16 credentialing information system, and such regulations shall indicate the  
17 procedures for collection and release of credentialing information under this  
18 act.

19 (3) The board shall appoint a ten-member advisory committee to  
20 assist with the adoption of policies and regulations concerning the  
21 credentialing information system. At least six (6) of the ten (10) members of  
22 the advisory committee shall be representative of credentialing organizations  
23 subject to this act, including not less than two (2) hospital representatives  
24 and not less than two (2) insurer or health maintenance organization  
25 representatives.

26 (4) Credentialing information shall not be disclosed to any  
27 parties other than the applicable health care provider and the credentialing  
28 organization and its designated credentialing and appeals, peer review and  
29 quality improvement committee(s) or body(ies). Except as permitted herein,  
30 credentialing information shall not be used for any purpose other than review  
31 by the board and credentialing organizations of the professional background,  
32 competency, qualifications and credentials or renewal of credentials of a  
33 health care provider, or appeals therefrom, and all such credentialing  
34 information shall be exempt from disclosure under the provisions of Arkansas  
35 Code §§ 25-19-101 through 25-19-107. Credentialing information may be  
36 disclosed in the following circumstances:

1                   (A) By the board, in disciplinary hearings before the board  
2 or in any trial or appeal of the board action or order.

3                   (B) By the board or credentialing organization, to any  
4 licensing, regulatory or disciplinary authorities or agencies of the United  
5 States or of other states or jurisdictions.

6                   (C) In any legal or regulatory proceeding which:

7                   (i) is brought by a health care provider; a  
8 representative of the health care provider or a class thereof; any local,  
9 state or federal agency or authority; or a patient or group or class of  
10 patients or their authorized representatives or agents; and

11                   (ii) challenges the actions, omissions or conduct of  
12 the credentialing organization with respect to credentialing of any health  
13 care provider or the grant or denial of any affiliation or participation of  
14 such health care provider with or in the credentialing organization or any  
15 network thereof; or

16                   (D) By any party when authorized to do so by the health  
17 care provider to whom the credentialing information relates.

18                   (5) The evaluation and discussion of credentialing information by  
19 a credentialing organization shall not be subject to discovery or admissible  
20 pursuant to the Arkansas Rules of Civil Procedure or the Freedom of  
21 Information Act, beginning at §25-19-101.

22                   (6) The board may enter into contractual agreements with users of  
23 the credentialing information system to define the type and form of  
24 information to be provided and to give users assurances of the integrity of  
25 the information collected.

26                   (7) The board may charge credentialing organizations a reasonable  
27 fee for the use of the credentialing service as established by rule and  
28 regulation. The fee shall be set in consultation with the advisory committee  
29 and shall be set at such a rate as will reimburse the board, when added to the  
30 credentialing assessments collected from physicians, for the cost of  
31 maintaining the credentialing information system. The board's costs may not  
32 exceed the fees charged by private vendors with a comparable statewide  
33 credentialing service. Each physician licensee of the Arkansas State Medical  
34 board will pay a credentialing fee of one hundred dollars (\$100.00) per year  
35 at the time of the renewal of the license for the year 2000 and 2001. For the  
36 year 2002 and each year thereafter, the board may assess each physician

1 licensee an amount not to exceed twenty-five dollars (\$25.00) per year to  
2 offset the cost for providing the credentialing service. Physicians shall not  
3 be charged a credentialing fee by a credentialing organization.

4 (e)(1) In lieu of testing credentialing information by its own primary  
5 source verification procedure, a credentialing organization may rely upon  
6 credentialing information from the board, if the board certifies that the  
7 information provided by the board has been tested by the board's primary  
8 source verification procedure. The credentialing organization shall be immune  
9 from civil suit based on any allegation of wrongdoing or negligence involved  
10 in the collection and verification of, or reliance upon, credentialing  
11 information on a health care provider if the credentialing organization has  
12 utilized the information provided by the board in credentialing a health care  
13 provider for affiliation or participation with the credentialing organization.  
14 This does not convey immunity from civil suit to a credentialing organization  
15 for any credentialing decision it makes.

16 (2) Subject only to the exceptions recognized in subsections  
17 (f)(1) and (f)(2) hereof, a credentialing organization shall be precluded  
18 hereby from seeking credentialing information from the physician or from  
19 sources other than the board if:

20 (A) the same credentialing information is available from the  
21 board; and

22 (B) at the time such credentialing information is requested,  
23 the board:

24 (i) holds certification by the National Committee for  
25 Quality Assurance as a certified credentials verification organization; and

26 (ii) demonstrates compliance with the principles for  
27 credentials verification organizations set forth by the Joint Commission on  
28 the Accreditation of Healthcare Organizations;

29 (iii) documents compliance with the Arkansas  
30 Department of Health Rules and Regulations applicable to credentialing; and

31 (iv) maintains evidence of compliance with the  
32 standards referenced in (i), (ii), and (iii) above; and

33 (C) the board charges fees which comply with (d)(7) above.  
34 Until such time as the board satisfies each of the foregoing prerequisites,  
35 credentialing organizations may, in their discretion, utilize credentialing  
36 information obtained from the board or they may seek other sources for the

1 same credentialing information. If at any time the board fails to satisfy any  
2 of the certification or compliance standards referenced in this subsection, no  
3 credentialing organization shall be required to utilize the board to obtain  
4 credentialing information during any period in which the board lacks such  
5 accreditation or compliance.

6 (f)(1) Credentialing organizations which utilize the credentialing  
7 information system offered by the Arkansas State Medical board shall not  
8 attempt to collect duplicate information from individual physicians or  
9 originating sources, but nothing herein shall prevent any credentialing  
10 organization from collecting or inquiring about any data not available from or  
11 through the board, nor from reporting to or inquiring of the National  
12 Practitioner Data Bank.

13 (2) The board may seek an injunction against any credentialing  
14 organization violating or attempting to violate this act and, upon prevailing,  
15 shall be entitled to recover attorney's fees and court costs involved in  
16 obtaining the injunction.

17 (g) The board will have the authority to hire such employees, enter  
18 into contracts with attorneys, individuals or corporations for services, as  
19 may be necessary to bring about the purpose of this act.

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21 SECTION 3. All provisions of this act of a general and permanent nature  
22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
23 Revision Commission shall incorporate the same in the Code.

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25 SECTION 4. If any provision of this act or the application thereof to  
26 any person or circumstance is held invalid, such invalidity shall not affect  
27 other provisions or applications of the act which can be given effect without  
28 the invalid provision or application, and to this end the provisions of this  
29 act are declared to be severable.

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31 SECTION 5. All laws and parts of laws in conflict with this act are  
32 hereby repealed.

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34 SECTION 6. EMERGENCY CLAUSE. It is hereby found and determined by the  
35 Eighty-second General Assembly of the State of Arkansas that hospitals,  
36 credentialing organizations and insurance companies are in need of physician



1 credentialing information collected by the Arkansas State Medical Board; that  
2 said information should be privileged and the sharing of said information  
3 should be protected so as to enhance the credentialing process of medical  
4 providers; that the laws protecting the credentialing process which now exist  
5 will expire on July 1, 1999 and that passage of this act will provide for the  
6 continued protection of the credentialing process. Therefore, an emergency is  
7 declared to exist and this act being immediately necessary for the  
8 preservation of the public peace, health and safety shall become effective on  
9 July 1, 1999.

10 /s/ Gullett

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