

**ARKANSAS SENATE**  
84th General Assembly - Regular Session, 2003  
**Amendment Form**

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**Subtitle of House Bill No. 1213**

"AN ACT TO ADDRESS INSURANCE COVERAGE FOR NURSING HOME PATIENTS  
AND PERSONAL INJURY CLAIMS AGAINST NURSING HOMES."

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**Amendment No. 5 to House Bill No. 1213.**

Amend House Bill No. 1213 as engrossed, H2/17/03:

Page 4, line 27, delete "presiding officer" and substitute "President Pro Tempore"

AND

Page 4, line 30, delete "presiding officer" and substitute "Speaker"

AND

Page 6, line 8, delete "two hundred dollars (\$200)" and substitute "four hundred dollars (\$400)"

AND

Page 7, line 7, delete "presiding officer" and substitute "President Pro Tempore"

AND

Page 7, line 8, delete "presiding officer" and substitute "Speaker"

AND

Page 7, delete lines 9 and 10 and substitute the following:  
"Representatives. The directors appointed by the President Pro Tempore of the Arkansas Senate and the Speaker of the Arkansas House of Representatives shall serve for"

AND

Page 8, delete line 29 and substitute the following:  
"services, including ordinary and customary long-term care services, rendered



to the patient by the facility, its owners, principals,"

AND

Page 9, delete line 15 and substitute the following:

"defined by § 20-10-213(4); provided, that "skilled nursing facility" does not include a residential care facility, post-acute head injury retraining and residential care facility, assisted living facility, or intermediate care facility for the mentally retarded."

AND

Page 9, line 26, delete "commenced" and substitute "brought"

AND

Page 9, delete lines 27 and 28 and substitute the following:

"the county where the accident occurred which caused the injury or death, or in the county where the person injured or killed resided at the time of injury. Any claim filed against a participating facility prior to the"

AND

Page 9, delete line 33 and substitute the following:

"Upon request by a participating facility which maintained coverage from the fund for the relevant period, other than a participating"

AND

Page 10, delete lines 8 and 9 and substitute the following:

"participating facility, the circuit court, upon the motion of the parties or its own"

AND

Page 10, delete lines 28 and 29 and substitute the following:

"(a) A claim against a participating facility shall be filed with the administrator"

AND

Page 13, line 10, delete "accrued" and insert "accrued"

AND

Page 13, delete line 28 and substitute the following:

"law.

(d) With respect to a participating facility which did not maintain coverage from the fund for the relevant period, a claim that has been approved by the administrator, or a claim that has been adjudicated to a final administrative order or a final judgment of a circuit court, shall be paid, and execution may be had thereon, as in judgments at law."

AND

Page 13, line 30, delete "from suit"

AND

Page 13, delete lines 33 through 35 and substitute the following:  
"acts performed solely as a treating physician of a patient, or for ordinary negligence, or for intentional wrongdoing. The medical director shall not be liable for any other acts or omissions performed within the scope of employment as a medical director. The immunity"

AND

Page 14, delete lines 4 through 36 and substitute the following:  
"20-10-1920. Privileged communications.  
In any claim or action for injury the proceedings, minutes, records, data, or reports of peer review committees or quality assurance evaluation committees, or similar groups, or quality improvement programs or surveys, shall not be admissible or subject to discovery pursuant the Arkansas Rules of Civil Procedure, and shall be privileged communications."

AND

Page 15, delete lines 1 through 13

AND

Page 15, delete line 15 and substitute the following:  
"20-10-1921. Punitive damages."

AND

Page 15, delete line 33 and substitute the following:  
"20-10-1922. Limitation on supersedeas."

AND

Insert a new section after SECTION 2 to read as follows:

"SECTION 3. Arkansas Code § 16-114-201(3) is amended to read as follows:

(3) "Medical injury" or "injury" means any adverse consequences arising out of or sustained in the course of the professional services, including ordinary and customary long-term care services, being rendered by a medical care provider, whether resulting from negligence, error, or omission in the performance of such services; or from rendition of such services without informed consent or in breach of warranty or in violation of contract; or from failure to diagnose; or from premature abandonment of a patient or of a course of treatment; or from failure to properly maintain equipment or appliances necessary to the rendition of such services; or

otherwise arising out of or sustained in the course of such services."

AND

Appropriately renumber the subsequent section of the bill.

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

By: Senator Horn  
LDH/MHF - 032620031224  
MHF473

\_\_\_\_\_  
Secretary