

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Senator Gordon

# A Bill

SENATE BILL 403

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 20-9-503 PERTAINING TO THE  
9 CONFIDENTIALITY OF RECORDS AND PROCEEDINGS OF HEALTH  
10 SERVICES PEER REVIEW COMMITTEES; AND FOR OTHER PURPOSES."

## Subtitle

12 "TO AMEND ARKANSAS CODE 20-9-503  
13 PERTAINING TO THE CONFIDENTIALITY OF  
14 RECORDS AND PROCEEDINGS OF HEALTH  
15 SERVICES PEER REVIEW COMMITTEES."  
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17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code 20-9-503 is amended to read as follows:

21 "§ 20-9-503. Proceeding and records confidential - Exception.

22 (a) The proceedings and records of a peer review committee, as defined  
23 in § 20-9-501, shall not be subject to discovery or introduction into  
24 evidence in any civil action against a provider of professional health  
25 services arising out of the matters which are subject to evaluation and  
26 review by the committee unless a court of competent jurisdiction, following  
27 application by an interested party and notice to the provider, determines  
28 that such information is material to the case and the interests of justice  
29 outweigh the need for confidentiality. *The court shall review the peer  
30 review records in camera without the parties present. In the event the court  
31 finds all or any portion of the records inadmissible, it may instruct counsel  
32 for all parties not to divulge the contents of those records. The portions  
33 of the peer review records found to be inadmissible shall be sealed and  
34 constitute a part of the record for purposes of appeal. The Supreme Court  
35 may, by rule, prescribe the procedures for abstracting the record on appeal.*

1 No person, in the absence of such a court determination of necessity, who  
2 was in attendance at a meeting of the committee shall be permitted or  
3 required to testify in any such civil action as to any evidence or other  
4 matters produced or presented during the proceedings of the committee or as  
5 to any findings, recommendations, evaluations, opinions, or other actions of  
6 the committee or any members thereof.

7 (b) However, information, documents, or records otherwise available  
8 from original sources are not to be construed as immune from discovery or use  
9 in any such action merely because they were presented during the proceedings  
10 of the committee; nor shall any person who testifies before the committee or  
11 who is a member of the committee be prevented from testifying as to matters  
12 within his knowledge, but the witness shall not be asked about his testimony  
13 before the committee or about opinions formed by him as a result of the  
14 committee hearings.

15 (c) *Members of the PEER-Review Committees identified in this section*  
16 *shall not be liable for slander or libel associated with any statement made*  
17 *within a PEER-Review Committee meeting relating to the competency of any*  
18 *health care professional."*

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20 SECTION 2. All provisions of this act of a general and permanent  
21 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
22 Code Revision Commission shall incorporate the same in the Code.

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24 SECTION 3. If any provision of this act or the application thereof to  
25 any person or circumstance is held invalid, such invalidity shall not affect  
26 other provisions or applications of the act which can be given effect without  
27 the invalid provision or application, and to this end the provisions of this  
28 act are declared to be severable.

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30 SECTION 4. All laws and parts of laws in conflict with this act are  
31 hereby repealed.

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*/s/Gordon*

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***As Engrossed: 3/16/95 3/28/95***

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