

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1718

5 By: Representative D. Ferguson
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE PATIENT RIGHT-TO-KNOW ACT; TO
9 PROVIDE FOR ACCESS BY PATIENTS AND THEIR PHYSICIANS
10 TO CONTACT INFORMATION; TO DECLARE AN EMERGENCY; AND
11 FOR OTHER PURPOSES.
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Subtitle

14 TO CREATE THE PATIENT RIGHT-TO-KNOW ACT;
15 TO PROVIDE FOR ACCESS BY PATIENTS AND
16 THEIR PHYSICIANS TO CONTACT INFORMATION;
17 AND TO DECLARE AN EMERGENCY.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code Title 20, Chapter 6, is amended to add an
24 additional subchapter to read as follows:

Subchapter 2 – Patient Right-to-Know Act

20-6-201. Title.

28 This subchapter shall be known and may be cited as the "Patient Right-
29 to-Know Act".
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20-6-202. Legislative findings and purpose.

(a) The General Assembly finds that:

33 (1) Patients are entitled to continuity of care with their
34 physician;

35 (2) Physicians are prohibited legally and ethically from
36 abandoning a patient before treatment has been concluded;



1 (3) When a physician changes practice locations, steps are
2 necessary to ensure that patient's continuity of care and the legal and
3 ethical obligations of the physician are fulfilled; and

4 (4) Patients should be informed about any change in the practice
5 location of their treating physician and should not be prevented from
6 receiving this type of information.

7 (b) The purpose of this subchapter is to remove and prevent
8 impediments to patients maintaining continuity of care and keeping their
9 treatment relationship with their chosen physician.

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11 20-6-203. Definitions.

12 As used in this subchapter:

13 (1) "Entity" means any person, organization, or business entity
14 of any type that engages a physician as an employee, independent contractor,
15 member, or in any other capacity for the practice of medicine as defined in §
16 17-95-202;

17 (2)(A) "Existing patient" means a person who is seen for a
18 medical diagnosis or treatment, or both, by a physician within the previous
19 twelve (12) months as evidenced by an entry in the medical record of the
20 patient.

21 (B) The twelve-month period described in subdivision
22 (2)(A) of this section shall be calculated by counting back twelve (12)
23 months from the later of the following dates:

24 (i) The date that the physician's relationship with
25 the entity terminates; or

26 (ii) The date that the physician gave the entity
27 notice of a new practice location; and

28 (3) "Physician" means a person who is licensed by the Arkansas
29 State Medical Board, the Arkansas State Board of Chiropractic Examiners, or
30 the Arkansas Board of Podiatric Medicine.

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32 20-6-204. Prohibited conduct.

33 (a) If the physician has made new practice location information or new
34 contact information available to the entity, an entity or person on behalf of
35 an entity shall not:

36 (1) Mislead any patient about the new practice location of a

1 physician or new contact information of a physician; or

2 (2) Fail to provide a patient with the new practice location of
3 a physician or new contact information of a physician when requested.

4 (b)(1) When requested by a physician who is relocating his or her
5 practice, an entity with a relationship with the physician shall either
6 within twenty-one (21) calendar days:

7 (A) Provide the physician with a list of the physician's
8 existing patient names and addresses; or

9 (B) Send a notice with the new practice location
10 information to all of the physician's existing patients after providing the
11 physician a copy of the proposed notice for review and comment.

12 (2) Within two (2) business days of the request described in
13 subdivision (b)(1) of this section, the entity shall provide the physician
14 with a list or schedule of upcoming patient appointments with the physician
15 and the contact information of the patients.

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17 20-6-205. Affirmative defense in medical injury cases.

18 If a patient abandonment or other medical injury occurs due to a
19 violation by an entity of this subchapter, the violation shall be an
20 affirmative defense for the physician in a claim brought by the injured
21 patient who shall be entitled to bring a claim against the entity.

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23 20-6-206. Injunctive relief.

24 (a) An affected patient or physician may file an action seeking an
25 injunction of a violation of this subchapter in the circuit court of:

26 (1) Pulaski County;

27 (2) The county in which the physician has his or her practice
28 located;

29 (3) The county in which the affected patient resides; or

30 (4) The county in which the entity is located.

31 (b) Upon the filing of a complaint, the court may issue a temporary
32 injunction on the violation without notice or bond.

33 (c) If the plaintiff patient or physician establishes that this
34 subchapter has been violated, the court may enter an order permanently
35 enjoining the violation of this subchapter or otherwise enforcing compliance
36 with this subchapter.

1 (d) A prevailing plaintiff shall be entitled to:

2 (1) The greater of liquidated damages in the amount of one
 3 thousand dollars (\$1,000) per day per violation, or actual damages; and

4 (2) Reasonable attorney's fees and costs.

5 (e) A violation of this subchapter shall constitute an unfair and
 6 deceptive act or practice as defined under the Deceptive Trade Practices Act,
 7 § 4-88-101 et seq.

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 9 20-6-207. Applicability – Construction.

10 (a) This subchapter:

11 (1) Applies to any express or implied contract, agreement, or
 12 understanding entered into, renewed, modified, or extended on or after the
 13 effective date of this subchapter; and

14 (2) Does not amend or repeal any portion of the Medical
 15 Corporation Act, § 4-29-301 et seq.

16 (b) Any purported waiver of the benefits or requirements of this
 17 subchapter is void and against the public policy of this state.

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 19 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 20 General Assembly of the State of Arkansas that physicians are often unable to
 21 obtain information about their patients when the physician terminates
 22 relationships with certain entities and relocate their practices; that
 23 patients are often unable to locate their physicians due to efforts by
 24 certain entities to hinder access; that the Patient Right-to-Know Act will
 25 prohibit this activity and require certain entities to inform patients of the
 26 new practice location and new contact information of their physicians; and
 27 that this act is immediately necessary to ensure continuity of care and
 28 prevent disruption of physician-patient relationships. Therefore, an
 29 emergency is declared to exist, and this act being immediately necessary for
 30 the preservation of the public peace, health, and safety shall become
 31 effective on:

32 (1) The date of its approval by the Governor;

33 (2) If the bill is neither approved nor vetoed by the Governor,
 34 the expiration of the period of time during which the Governor may veto the
 35 bill; or

36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.

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