

INTERIM STUDY PROPOSAL 2015-101

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

SENATE BILL 959

By: Senator D. Sanders

Filed with: Senate Committee on Insurance and Commerce
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO PROMOTE HEALTHCARE TRANSPARENCY; TO PRESERVE THE INTEGRITY OF THE RELATIONSHIP BETWEEN HEALTHCARE PROVIDERS AND PATIENTS; TO PROHIBIT GIFTS TO HEALTHCARE PROVIDERS; TO CREATE THE PROVIDER-PATIENT RELATIONSHIP PROTECTION ACT OF 2015; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE PROVIDER-PATIENT RELATIONSHIP PROTECTION ACT OF 2015.

WHEREAS, the State of Arkansas and its healthcare providers are dedicated to preserving the integrity of the provider-patient relationship and are committed to the ethical service of patients who entrust their care to licensed healthcare professionals; and

WHEREAS, patients expect that decisions about their care are based solely upon medical considerations, patient need, and reasonable expectations of effectiveness as reflected by the applicable standard of care; and

WHEREAS, the provider-patient relationship is paramount and providers should disclose to their patients any conflicts of interest and resolve such conflicts in a way that that preserves the provider relationship with patients; and

WHEREAS, restrictions on gifts and increased transparency are expected to save money for consumers, businesses, and the state by reducing the promotion of expensive prescription drugs and medical devices,

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2 NOW THEREFORE,
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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5 SECTION 1. Arkansas Code Title 17, Chapter 80, is amended to add an additional subchapter to
6 read as follows:

7 Subchapter 4 — Arkansas Provider-Patient Relationship Protection Act of 2015

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9 17-80-401. Title.

10 This act shall be known and may be cited as the “Arkansas Provider-Patient Relationship
11 Protection Act of 2015”.

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13 17-80-402. Legislative intent.

14 It is the intent of the General Assembly to increase transparency and reduce real or perceived
15 conflicts of interest which undermine patient confidence in healthcare providers and increase healthcare
16 costs.

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18 17-80-403. Definition.

19 As used in this subchapter:

20 (1) "Allowable expenditures" means:

21 (A) Professional samples of prescription drugs provided to a healthcare provider
22 for free distribution to patients;

23 (B) Items with a total combined retail value, in any calendar year, of no more
24 than twenty-five dollars (\$25.00);

25 (C) A payment to the sponsor of a medical conference, professional meeting, or
26 other educational program, provided that the payment is not made directly to a healthcare provider and is
27 used solely for bona fide educational purposes;

28 (D) Reasonable honoraria and reimbursement of reasonable expenses of a
29 healthcare provider who serves on the faculty at a professional or educational conference or meeting;

30 (E) Compensation for the professional or consulting services of a healthcare
31 provider in connection with a genuine research product that constitutes systematic investigation, is
32 designed to develop or contribute to general knowledge, and can reasonably be considered to be of
33 significant interest or value to researchers or healthcare providers working in the particular field of
34 industry;

35 (F) As described in a written agreement between the healthcare provider and
36 medical device manufacturer, reimbursement for reasonable expenses necessary for technical training of

1 a healthcare provider on the use of a medical device;

2 (G) Provision of or payment for modest meals and refreshments in connection
3 with educational presentations for the purposes of educating and informing healthcare providers about
4 the benefits, risks, and appropriate uses of prescription drugs or medical devices, disease states or other
5 scientific information, provided that the presentations occur in a venue and manner conducive to
6 informational communication;

7 (H) Royalties and licensing fees paid to a healthcare provider in return for
8 contractual rights to use or purchase a patented or otherwise legally recognized discovery for which the
9 healthcare provider holds an ownership right;

10 (I) Publications and educational materials; and

11 (J) Salaries or other benefits paid to employees;

12 (2) "Gift" means any payment, entertainment, advance, services, or anything of value
13 unless consideration of equal or greater value has been given but does not include allowable
14 expenditures; and

15 (3) "Healthcare provider" means an individual or entity licensed by the state to provide
16 healthcare services.

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18 17-80-404. Gifts to healthcare providers prohibited.

19 It shall be unlawful for any pharmaceutical, biomedical, or medical device manufacturer or
20 distributor doing business in the state, or any agent thereof, to offer or give a gift to a healthcare provider,
21 a healthcare provider's spouse, or a healthcare provider's staff or practice, whether incorporated or
22 unincorporated.

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24 17-80-405. Transparency of allowable expenditures.

25 (a) Annually on or before April 1 of each calendar year, a pharmaceutical, biomedical, or medical
26 device manufacturer doing business in the state shall disclose to the office of the Attorney General in the
27 preceding calendar year the product marketing costs in the state and the value, nature, and recipient
28 information of any allowable expenditure to a healthcare provider, a spouse of a healthcare provider, or
29 the staff or practice, regardless of incorporation, of a healthcare provider.

30 (b) A healthcare provider shall annually disclose in a written document to patients:

31 (1) The value and nature of compensation received for allowable expenditures,
32 affiliations with payers or other healthcare providers;

33 (2) Participation in accountable care organizations or similar entities that create
34 incentives for patients to seek care inside the organization;

35 (3) Ownership or financial interests in healthcare businesses, including without limitation
36 hospitals, imaging centers, laboratories, equipment vendors, or physical therapy clinics;

1 (4) Consulting services including allowable expenditures;

2 (5) Adverse actions taken by the licensure board or agency authorized to license and
3 regulate the healthcare provider to the extent such actions are not classified as confidential under state
4 law; and

5 (6) Adjudicated civil or criminal actions related to federal or state healthcare fraud and
6 abuse.

7 (c) A healthcare provider shall disclose the goals of the clinical trial and the optimal clinical
8 outcomes to patients before the patient agrees to participate in clinical trials.

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11 Referred by the Arkansas Senate

12 Prepared by: VJF

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