

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

SENATE BILL 959

By: Senator D. Sanders

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,



NOW THEREFORE,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

Subchapter 4 – Arkansas Provider-Patient Relationship Protection Act of 2015

17-80-401. Title.

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

17-80-402. Legislative intent.

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

17-80-403. Definition.

As used in this subchapter:

(1) "Allowable expenditures" means:

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

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

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

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

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

in the particular field of industry;

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

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

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

(I) Publications and educational materials; and

(J) Salaries or other benefits paid to employees;

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

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

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

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

17-80-405. Transparency of allowable expenditures.

(a) Annually on or before April 1 of each calendar year, a pharmaceutical, biomedical, or medical device manufacturer doing business in the state shall disclose to the office of the Attorney General in the preceding calendar year the product marketing costs in the state and the value, nature, and recipient information of any allowable expenditure to a

healthcare provider, a spouse of a healthcare provider, or the staff or practice, regardless of incorporation, of a healthcare provider.

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

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

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

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

(4) Consulting services including allowable expenditures;

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

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

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