

Stricken language would be deleted from and underlined language would be added to present law.
Act 411 of the Regular Session

State of Arkansas *As Engrossed: H3/2/15 H3/3/15 H3/6/15*
90th General Assembly **A Bill**
Regular Session, 2015

HOUSE BILL 1386

By: Representatives Boyd, Bentley, G. Hodges, Scott, Baine, C. Fite, C. Douglas, *Vaught*
By: *Senator Irvin*

For An Act To Be Entitled

AN ACT TO CREATE THE SUBSTANCE ABUSE REPORTING ACT;
AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE SUBSTANCE ABUSE REPORTING
ACT.

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

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

17-80-117. Substance Abuse Reporting Act.

(a) As used in this section:

(1) "Disciplinary action" means an action taken by a required reporter to terminate:

(A) The employment of a healthcare professional;

(B) A contractual arrangement with a healthcare professional; or

(C) The clinical privileges of a healthcare professional;

(2) "Healthcare professional" means an individual who is licensed, certified, or otherwise authorized by a licensing authority of this state to administer healthcare services in the ordinary course of his or her business or practice;

(3) "Licensing authority" means a government agency or board charged with licensing, certifying, or authorizing a healthcare professional to administer health care in this state; and



(4) "Required reporter" means:

(A) A facility licensed by the Division of Health Facilities Services of the Department of Health;

(B) A facility licensed by the Office of Long Term Care of the Division of Medical Services of the Department of Human Services; and

(C) Any other entity that employs or contracts with healthcare professionals to provide healthcare services to individuals in the State of Arkansas.

(b) The chief executive officer or an official agent of a required reporter, or his or her designee, shall report to the appropriate licensing authority the following:

(1) A final disciplinary action taken against a healthcare professional as a result of the *diversion, misuse, or* abuse of illicit drugs or *controlled substances as defined by state and federal law* by a healthcare professional; and

(2) The voluntary resignation of any healthcare professional against whom a disciplinary action arising from the *diversion, misuse, or* abuse of illicit drugs or *controlled substances as defined by state and federal law* by a healthcare professional if a disciplinary action is pending.

(c) A report required by subsection (b) of this section shall be submitted within seven (7) days of the final disciplinary action or voluntary resignation and shall include without limitation:

(1) The name, address, and telephone number of the person who is the subject of the report; and

(2) A description of the facts giving rise to the issuance of the report.

(d) If a licensing authority receiving a report of disciplinary action under subsection (b) determines, after investigation and due process, that a criminal act may have been committed *involving the diversion of controlled substances to one (1) or more third parties by the healthcare professional*, the licensing authority shall report the information to the *local office of the Office of Diversion Control of the United States Drug Enforcement Administration.*

(e) The chief executive officer or an official agent of a required reporter, or his or her designee, shall report to the appropriate law enforcement agency any final disciplinary action taken against an employee as

a result of his or her diversion of controlled substances to one (1) or more third parties when the employee is not a healthcare professional.

(f) The following information shall be exempt from the reporting requirements of this section:

(1) Information learned or maintained in connection with an alcohol or drug prevention function that is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States to the extent that the reporting is in violation of 42 U.S.C. § 290dd-2 or federal regulations adopted relating to 42 U.S.C. § 290dd-2, as it existed on January 1, 2015; and

(2) Information learned or maintained by a required reporter in the course of providing healthcare services to the healthcare professional.

(g) The duty to report under this section does not require disclosure of communications, proceedings, minutes, records, or reports that are privileged under § 16-46-105, § 16-46-109, § 20-9-503, or any other law of state.

(h) The duty to report that is required under this section is in addition to, and is not a substitute for, other reporting requirements imposed by applicable federal and state law including without limitation:

(1) Reporting the theft or loss of controlled substances under the federal Controlled Substances Act, 21 U.S.C. § 801 et seq.; and

(2) Reporting physician misconduct under § 17-95-104.

(i) A required reporter or its agents or employees shall not be liable to any person and are immune from civil liability for filing a report required by this section and the contents of the report.

/s/Boyd

APPROVED: 03/16/2015