

State of Arkansas
94th General Assembly
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A Bill

SENATE BILL 279

By: Senators Irvin, J. Boyd
By: Representative Wooldridge

For An Act To Be Entitled

AN ACT TO AMEND THE ALTERNATIVE TO DISCIPLINE ACT; TO BROADEN THE ALTERNATIVE TO DISCIPLINE ACT TO APPLY TO NON-NURSES REGULATED BY THE ARKANSAS STATE BOARD OF NURSING; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ALTERNATIVE TO DISCIPLINE ACT; AND TO BROADEN THE ALTERNATIVE TO DISCIPLINE ACT TO APPLY TO NON-NURSES REGULATED BY THE ARKANSAS STATE BOARD OF NURSING.

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

SECTION 1. Arkansas Code §§ 17-87-802 - 17-87-808 are amended to read as follows:

17-87-802. Purpose.

The purpose of this subchapter is to:

- (1) Provide for the identification and treatment of ~~nurses~~ individuals licensed or certified by the Arkansas State Board of Nursing who suffer from impairments;
- (2) Promote public health and safety; and
- (3) Ensure the continued availability of the skills of highly trained ~~nursing~~ healthcare professionals for the benefit of the public.

17-87-803. Definitions.



As used in this subchapter:

(1) "Alternative to discipline program" means a plan approved by the Arkansas State Board of Nursing for intervention, treatment, and rehabilitation of an impaired ~~nurse~~ individual who is licensed or certified by the board;

(2) "Impairment" means the inability or significant potential for inability to practice with reasonable safety and skill as a result of a diagnosed substance use disorder or any diagnosed mental or physical health condition;

(3) "Participant" means an applicant, ~~or licensee,~~ or certified individual who:

(A) Self reports an impairment to the board;

(B) Is referred to the alternative to discipline program by the board; or

(C) Signs an initial agreement with the alternative to discipline program coordinator to oversee the impaired ~~nurse~~ participant; and

(4) "Rehabilitation" means the process whereby an impaired ~~nurse~~ participant advances in an alternative to discipline program to an optimal level of competence to practice ~~nursing~~ under his or her license or certification without endangering the public.

17-87-804. Alternative to discipline program – Program coordinator duties – Board review.

(a) The Arkansas State Board of Nursing shall create an alternative to discipline program which shall:

(1) Serve as a diversion program to which the board may refer ~~licensees~~ participants when appropriate in lieu of or in addition to other disciplinary action; and

(2) Be a source of referral for ~~nurses~~ participants who, on a strictly voluntary basis, desire to avail themselves of its services.

(b) The board may perform the following duties and powers while operating the alternative to discipline program:

(1) Approve addiction evaluators and treatment programs available through the alternative to discipline program;

(2) Contract with providers of treatment programs;

(3) Receive and evaluate reports of suspected impairment,

regardless of the source of the report;

(4) Intervene in cases of verified impairment;

(5) Refer impaired ~~nurses~~ individuals to the program coordinator of the alternative to discipline program or another treatment program, or both;

(6) Monitor the treatment and rehabilitation of impaired ~~nurses~~ participants and the post-treatment of impaired ~~nurses~~ participants who are rehabilitated; and

(7) Perform other activities deemed necessary to accomplish the purposes of this subchapter.

(c)(1) The board shall employ a program coordinator to organize and administer the alternative to discipline program.

(2) The program coordinator shall:

(A) Review and evaluate ~~nurses~~ individuals who request participation in or are recommended for the alternative to discipline program;

(B) Review and designate treatment facilities and services to which ~~nurses~~ participants in the alternative to discipline program may be referred;

(C) ~~Receipt and review of~~ Receive and review information relating to the participation of ~~nurses~~ participants in the alternative to discipline program;

(D) ~~Preparation of~~ Prepare reports for the board; and

(E) ~~Other~~ Carry out other duties as deemed necessary by the board.

(3)(A) The board shall review the activities of the program coordinator.

(B) As part of this evaluation, the board may review files of all participants in the alternative to discipline program.

(C) The board shall also resolve complaints voiced regarding the alternative to discipline program.

17-87-805. Reporting procedure.

The Arkansas State Board of Nursing shall develop rules and procedures for:

(1) Reporting to the board:

(A) The names and results of any contact or investigation regarding an impaired ~~nurse~~ participant who is believed to be an imminent danger to the public or to himself or herself;

(B) An impaired ~~nurse~~ participant who:

(i) Fails or refuses to:

(a) Cooperate with the program coordinator; or

(b) Submit to treatment;

(ii) Exhibits professional incompetence; or

(iii) Does not have alleviation through treatment

for his or her impairment; and

(C) A participant of the alternative to discipline program resuming ~~the practice of nursing~~;

(2) Informing each participant of the alternative to discipline program regarding the alternative to discipline program requirements, alternative to discipline program procedures, responsibilities of the participant, and consequences of noncompliance; and

(3) Performing other activities as necessary to implement this subchapter.

17-87-806. Program requirements.

(a)(1) Eligibility to participate in the alternative to discipline program is at the sole discretion of the Arkansas State Board of Nursing.

(2) A person is not entitled to participate in the alternative to discipline program.

(b) To establish eligibility, a ~~nurse~~ participant shall:

(1) Have a license or certification issued or an application for licensure or certification in the State of Arkansas;

(2) Acknowledge that the ~~nurse~~ participant has a drug or alcohol abuse problem or addiction; and

(3) Meet any other requirements determined by the board.

(c) A participant in the alternative to discipline program shall:

(1) Agree to:

(A) Complete an evaluation conducted by a board-approved evaluator in order to outline the treatment required;

(B) Place his or her ~~nursing~~ license or certification on inactive status until a treatment provider determines that the participant

can safely practice ~~nursing~~;

(C) Comply with:

(i) The written terms of the agreement to participate in the alternative to discipline program; and

(ii) The terms and conditions of any contract between the board and participant;

(D) Pay all costs for treatment and monitoring;

(E) Select from board-approved evaluators, treatment facilities, counselors, and laboratory facilities before utilization of services;

(F) Admit in an affidavit to violations of § 17-87-101 et seq.; and

(2) Perform other activities as determined necessary by the board.

17-87-807. Failure to comply.

(a) Participation in the alternative to discipline program under this subchapter is not a defense to any disciplinary action that may be taken by the Arkansas State Board of Nursing.

(b) This subchapter does not preclude the board from commencing disciplinary action against a ~~nurse~~ participant who is terminated from or fails to comply with the alternative to discipline program.

17-87-808. Liability.

(a) A person acting on behalf of the Arkansas State Board of Nursing in the alternative to discipline program under this section is considered an officer or employee of the State of Arkansas for purposes of:

(1) Immunity from civil liability under § 19-10-301 et seq.; and

(2) Payment of actual damages on behalf of state officers or employees under § 21-9-201 et seq.

(b)(1) Except as provided in subdivision (b)(3) of this section, all participant records shall be confidential and shall not be subject to public inspection except under an order of a court of competent jurisdiction.

(2) However, the records may be introduced as evidence in any relevant proceedings before the board and shall be produced upon board request.

(3) The records regarding ~~an impaired nurse or~~ a participant of in the alternative to discipline program shall be available to:

- (A) The board;
- (B) The staff of the board;
- (C) An employer;
- (D) A treating healthcare provider;
- (E) ~~Nursing education~~ Education programs; and
- (F) Other states' nursing boards.

APPROVED: 3/6/23