

As Engrossed: 4/8/93

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Collier**

A Bill

HOUSE BILL 1957

For An Act To Be Entitled

8 "AN ACT TO BE KNOWN AS THE _IMPAIRED PHYSICIAN AND DENTIST
9 TREATMENT ACT_."

Subtitle

12 "AN ACT TO BE KNOWN AS THE _IMPAIRED PHYSICIAN AND DENTIST
13 TREATMENT ACT_."

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

17 SECTION 1. This act shall be known as the "Impaired Physician and
18 Dentist Treatment Act."

20 SECTION 2. The purpose of this act is to provide for the identification
21 and treatment of physicians and dentists licensed under the Arkansas Medical
22 Practices Act who suffer from impairment in order to promote the public health
23 and safety and to ensure the continued availability of the skills of highly
24 trained medical and dental professionals for the benefit of the public.

26 SECTION 3. For purposes of this act:

27 (1) "Board" shall mean the Arkansas State Medical Board with reference
28 to physicians and the Arkansas State Dental Board with reference to dentists.

29 (2) "Impaired" or "Impairment" shall mean the presence of the diseases
30 of alcoholism, drug abuse or mental illness.

31 (3) "Impaired Physician Program" shall mean the State Medical Society
32 sponsored program for the detection, intervention and monitoring of impaired
33 physicians.

34 (4) "Impaired Dentist Program" shall mean the Arkansas State Dental
35 Association sponsored program for the detection, intervention and monitoring

1 of impaired dentists.

2 (5) "Physicians Health Committee" shall mean a physician committee of
3 the Arkansas Medical Society comprised of physicians who have expertise in the
4 area of alcoholism, drug abuse or mental illness, and that has been designated
5 by the Arkansas Medical Society to perform any and all activities set forth in
6 Section 3 (3).

7 (6) "Dentist Health Committee" shall mean a dentist committee of the
8 Arkansas State Dental Association comprised of dentists who have expertise in
9 the area of alcoholism, drug abuse or mental illness, and that has been
10 designated by the Arkansas State Dental Association to perform any and all of
11 the activities set forth in Section 3 (4).

12 (7) "Professional Incompetence" shall mean the inability or failure of
13 a physician or dentist to practice their respective professions with
14 reasonable skill and safety. Impairment in and of itself shall not give rise
15 to a presumption of professional incompetence.

16 (8) "Treatment Program" shall mean a plan of care and rehabilitation
17 services provided by those organizations, persons, or organizations and
18 persons authorized to provide such services for impaired physicians and
19 dentists taking part in the programs provided under this act.

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21 SECTION 4. The Arkansas Medical Society shall have the authority to
22 establish a physicians health committee and the Arkansas State Dental
23 Association shall have the authority to establish a dentists health committee
24 to undertake the functions and responsibilities to carry out the purposes of
25 this act and may include any of the following:

26 (1) contracting with providers of treatment programs;

27 (2) receiving and evaluating reports of suspected impairment from any
28 source;

29 (3) intervening in cases of verified impairment;

30 (4) referring impaired physicians or dentists to treatment programs;

31 (5) monitoring the treatment and rehabilitation of impaired physicians
32 or dentists;

33 (6) providing post-treatment monitoring and support of rehabilitated
34 impaired physicians and dentists; and

35 (7) performing such other activities as the committees deem necessary

1 to accomplish the purposes of this act.

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3 SECTION 5. The Physicians Health Committee and the Dentists Health
4 Committee shall develop procedures for:

5 (1) immediate reporting to the appropriate board of the names and
6 results of any contact or investigation regarding any impaired physician or
7 impaired dentist who is believed to constitute an imminent danger to the
8 public or to himself or herself;

9 (2) reporting to the appropriate board in a timely fashion any impaired
10 physician or any impaired dentist who refuses to cooperate with the respective
11 committee, refuses to submit to treatment or whose impairment is not
12 substantially alleviated through treatment, and who in the opinion of the
13 respective committee exhibits professional incompetence; and

14 (3) informing each participant of the Impaired Physician Program or the
15 Impaired Dentist Program of the program procedures, responsibilities of
16 program participants and the possible consequences of noncompliance with the
17 program.

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19 SECTION 6. If the Arkansas State Medical Board has reason to believe
20 that a physician is impaired or if the Arkansas State Dental Board has reason
21 to believe that a dentist is impaired, either board may cause an evaluation of
22 such physician or dentist to be conducted by the appropriate committee for the
23 purpose of determining if there is an impairment. The Physicians Health
24 Committee or the Dentists Health Committee shall report the findings of its
25 evaluation to their respective boards.

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27 SECTION 7. An impaired physician or an impaired dentist may request in
28 writing to the appropriate board for a restriction of their license to
29 practice. The board may grant such request for restriction and shall have
30 authority to attach conditions to the licensure of the physician to practice
31 medicine or the dentist to practice dentistry within specified limitations.
32 Removal of a voluntary restriction on licensure to practice medicine or
33 dentistry shall be subject to the procedure for reinstatement of licensure
34 pursuant to the Arkansas Medical Practices Act or the Arkansas Dental
35 Practices Act.

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2 SECTION 8. (a) *Notwithstanding any provision of state law, records of*
3 *the Physicians Health Committee pertaining to an impaired physician and all*
4 *records of the Dentists Health Committee pertaining to an impaired dentist*
5 *shall be kept confidential and are not subject to discovery or subpoena. No*
6 *person in attendance at any meeting of the Physicians Health Committee or a*
7 *Dentists Health Committee shall be required to testify as to any committee*
8 *discussions or proceedings.*

9 (b) *However, information, documents, or records otherwise available*
10 *from original sources are not to be construed as immune from discovery or use*
11 *in any such action merely because they were presented during the proceedings*
12 *of the committee; nor shall any person who testifies before the committee or*
13 *who is a member of the committee be prevented from testifying as to matters*
14 *within his knowledge, but the witness shall not be asked about his testimony*
15 *before the committee or about opinions formed by him as a result of the*
16 *committee hearings.*

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18 SECTION 9. *An impaired physician who is participating in or has*
19 *successfully completed a treatment program pursuant to this act shall not be*
20 *excluded from any hospital staff solely because of such participation.*

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22 SECTION 10. (a) *Notwithstanding any other provisions of law, the*
23 *Arkansas Medical Society, the Physicians Health Committee and members thereof,*
24 *the Arkansas State Dental Association, the Dentists Health Committee and*
25 *members thereof shall not be held liable in damages to any person for any*
26 *acts, omissions or recommendations made by him or her in good faith while*
27 *acting within the scope of his or her responsibilities pursuant to this act.*

28 (b) *No person who in good faith and without malice makes a report to*
29 *the Physicians Health Committee or to the Dentists Health Committee shall be*
30 *liable in damages to any person.*

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32 SECTION 11. *All provisions of this act of a general and permanent*
33 *nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas*
34 *Code Revision Commission shall incorporate the same in the Code.*

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1 SECTION 12. If any provision of this act or the application thereof to
2 any person or circumstance is held invalid, such invalidity shall not affect
3 other provisions or applications of the act which can be given effect without
4 the invalid provision or application, and to this end the provisions of this
5 act are declared to be severable.

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7 SECTION 13. All laws and parts of laws in conflict with this act are
8 hereby repealed.

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10 SECTION 14. EMERGENCY. It is hereby found and determined by the
11 General Assembly that there is a need for the identification and treatment of
12 physicians and dentists licensed under the Arkansas Medical Practices Act who
13 suffer from impairment in order to promote the public health and safety and to
14 ensure the continued availability of the skills of highly trained medical and
15 dental professionals for the benefit of the public. Therefore, an emergency
16 is hereby declared to exist and this act being necessary for the immediate
17 preservation of the public peace, health and safety shall be in full force and
18 effect from and after its passage and approval.

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/s/Rep. Collier

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