

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

A Bill

ACT 1220 OF 1993
HOUSE BILL 1957

For An Act To Be Entitled

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

Subtitle

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

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

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

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

SECTION 3. For purposes of this act:

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

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

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

(4) "Impaired Dentist Program" shall mean the Arkansas State Dental
Association sponsored program for the detection, intervention and monitoring
of impaired dentists.

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

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

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

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

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

25 (1) contracting with providers of treatment programs;

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

28 (3) intervening in cases of verified impairment;

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

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

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

34 (7) performing such other activities as the committees deem necessary
35 to accomplish the purposes of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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35 SECTION 12. *If any provision of this act or the application thereof to*

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

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

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

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/s/Rep. Collier

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APPROVED: 4/19/93

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As Engrossed: 4/8/93

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