

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1413

5 By: Representatives Boyd, Pilkington
6 By: Senator Files
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE ALTERNATIVE TO DISCIPLINE ACT;
10 TO PROVIDE FOR TREATMENT OF NURSES LICENSED IN
11 ARKANSAS WHO SUFFER FROM IMPAIRMENT; AND FOR OTHER
12 PURPOSES.
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Subtitle

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16 TO CREATE THE ALTERNATIVE TO DISCIPLINE
17 ACT; AND TO PROVIDE FOR TREATMENT OF
18 NURSES LICENSED IN ARKANSAS WHO SUFFER
19 FROM IMPAIRMENT.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 17, Chapter 87, is amended to add an
25 additional subchapter to read as follows:

26 Subchapter 8 – Alternative to Discipline Act
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28 17-87-801. Title.

29 This subchapter shall be known and may be cited as the "Alternative to
30 Discipline Act".
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32 17-87-802. Purpose.

33 The purpose of this subchapter is to:

34 (1) Provide for the identification and treatment of nurses
35 licensed by the Arkansas State Board of Nursing who suffer from impairments;

36 (2) Promote public health and safety; and



1 (3) Ensure the continued availability of the skills of highly
 2 trained nursing professionals for the benefit of the public.

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 4 17-87-803. Definitions.

5 As used in this subchapter:

6 (1) "Alternative to discipline program" means a plan approved by
 7 the Arkansas State Board of Nursing for intervention, treatment, and
 8 rehabilitation of an impaired nurse;

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

13 (3) "Participant" means an applicant or licensee who:

14 (A) Self reports an impairment to the board;

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

17 (C) Signs an initial agreement with the program
 18 coordinator to oversee the impaired nurse; and

19 (4) "Rehabilitation" means the process whereby an impaired nurse
 20 advances in an alternative to discipline program to an optimal level of
 21 competence to practice nursing without endangering the public.

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 23 17-87-804. Alternative to Discipline Program – Program coordinator
 24 duties – Board review.

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

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

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

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

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

36 (2) Contract with providers of treatment programs;

1 (3) Receive and evaluate reports of suspected impairment,
 2 regardless of the source of the report;

3 (4) Intervene in cases of verified impairment;

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

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

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

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

12 (2) The program coordinator shall:

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

15 (B) Review and designate treatment facilities and services
 16 to which nurses in the program may be referred;

17 (C) Receipt and review of information relating to the
 18 participation of nurses in the program;

19 (D) Preparation of reports for the board; and

20 (E) Other duties as deemed necessary by the board.

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

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

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

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 28 17-87-805. Reporting procedure.

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

31 (1) Reporting to the board:

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

35 (B) An impaired nurse who:

36 (i) Fails or refuses to:

- 1 (a) Cooperate with the program coordinator; or
- 2 (b) Submit to treatment;
- 3 (ii) Exhibits professional incompetence; or
- 4 (iii) Does not have alleviation through treatment
- 5 for his or her impairment; and

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

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

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

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14 17-87-806. Program requirements.

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

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

19 (b) To establish eligibility, a nurse shall:

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

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

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

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

26 (1) Agree to:

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

29 (B) Place his or her nursing license on inactive status
 30 until a treatment provider determines that the participant can safely
 31 practice nursing;

32 (C) Comply with:

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

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

- 1 (D) Pay all costs for treatment and monitoring;
- 2 (E) Select from board-approved evaluators, treatment
- 3 facilities, counselors, and laboratory facilities before utilization of
- 4 services;
- 5 (F) Admit in an affidavit to violations of § 17-87-101 et
- 6 seq.; and
- 7 (2) Perform other activities as determined necessary by the
- 8 board.

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10 17-87-807. Failure to comply.

11 (a) Participation in the alternative to discipline program under this

12 subchapter is not a defense to any disciplinary action that may be taken by

13 the Arkansas State Board of Nursing.

14 (b) This subchapter does not preclude the board from commencing

15 disciplinary action against a nurse who is terminated from or fails to comply

16 with the alternative to discipline program.

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18 17-87-808. Liability.

19 (a) A person acting on behalf of the Arkansas State Board of Nursing

20 in the alternative to discipline program under this section is considered an

21 officer or employee of the State of Arkansas for purposes of:

- 22 (1) Immunity from civil liability under § 19-10-301 et seq.; and
- 23 (2) Payment of actual damages on behalf of state officers or
- 24 employees under § 21-9-201 et seq.

25 (b)(1) Except as provided in subdivision (b)(3) of this section, all

26 participant records shall be confidential and shall not be subject to public

27 inspection except under an order of a court of competent jurisdiction.

28 (2) However, the records may be introduced as evidence in any

29 relevant proceedings before the board and shall be produced upon board

30 request.

31 (3) The records regarding an impaired nurse or a participant of

32 the alternative to discipline program shall be available to:

- 33 (A) The board;
- 34 (B) The staff of the board;
- 35 (C) An employer;
- 36 (D) A treating healthcare provider;

- 1 (E) Nursing education programs; and
- 2 (F) Other states' nursing boards.

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5 **APPROVED: 03/02/2017**

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