

1 State of Arkansas *As Engrossed: H3/2/15 H3/3/15 H3/6/15*

2 90th General Assembly

A Bill

3 Regular Session, 2015

HOUSE BILL 1386

4

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

6 *By: Senator Irvin*

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For An Act To Be Entitled

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

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12

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Subtitle

14

TO CREATE THE SUBSTANCE ABUSE REPORTING
15 ACT.

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

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

22

17-80-117. Substance Abuse Reporting Act.

23

(a) As used in this section:

24

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

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(A) The employment of a healthcare professional;

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

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(C) The clinical privileges of a healthcare professional;

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

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



1 (4) "Required reporter" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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27 /s/Boyd
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30 **APPROVED: 03/16/2015**
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