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**CHAPTER TEN
ALTERNATIVE TO DISCIPLINE**

**SECTION I
QUALIFICATIONS FOR ADMISSION**

In order to be eligible for admission to the ATD program the ~~individual licensee or applicant for licensure~~ shall:

- A. Hold an Arkansas nursing license, or certificate or be eligible for licensure or certification;
- B. Otherwise be eligible for continued licensure or certification under the Arkansas *Nurse Practice Act*;
- C. Acknowledge a drug or alcohol abuse problem or addiction; and
- D. Voluntarily request participation in the ATD program.
- E. A participant may transfer from another state’s alternative program if it is substantively similar and approved by the ATD program director.

HISTORY: Adopted: January 1, 2018
Amended: July 1, 2020; **2023**

**SECTION II
DENIAL TO PROGRAM**

~~Licenses or applicants for licensure~~ Individuals will be denied participation in the ATD program if they:

- A. Do not meet the qualifications listed in Section I;
- B. Diverted controlled substances for reasons other than self-administration;
- C. Engaged in behaviors resulting in patient harm;
- D. Have prior discipline by any board of nursing for substance abuse or diversion; or
- E. Demonstrated unsuccessful participation resulting in termination from the Arkansas ATD program or similar program offered in another jurisdiction.

HISTORY: Adopted: January 1, 2018
Amended: 2023

**SECTION III
REQUIREMENTS FOR PARTICIPATION**

The participant shall:

- A. Agree to immediately place licensure or certification on inactive status;
- B. Complete an in-depth psychological and addictive evaluation by a Board approved evaluator;
- C. Agree to complete all treatment recommendations, if any, of the evaluator;
- D. Admit, in writing, to violation of the Arkansas *Nurse Practice Act*;
- E. Enter into an ATD program contract;
- F. Execute any release necessary to give the ATD program director access to records, including but not limited to medical, employment and criminal records; and
- G. Agree to not practice ~~nursing~~ without written authorization from the ATD program director.

HISTORY: Adopted: January 1, 2018
Amended: 2023

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SECTION IV STANDARDS FOR APPROVED EVALUATORS AND TREATMENT PROVIDERS

- A. Board approved evaluators shall meet the following standards:
1. Be a physician, psychiatrist, psychologist, or mental health certified Advanced Practice Registered Nurse who is engaged in the treatment of substance use disorder, including alcohol;
 2. Demonstrate the ability to perform an examination to include a detailed history with the appropriate testing i.e. drug screens and other psychological testing as indicated;
 3. Cooperate and communicate with the ATD program director; and
 4. Submit evaluation reports according to Board approved criteria.
- B. Board approved treatment providers shall meet the following standards:
1. Provide outpatient and/or inpatient treatment;
 2. Cooperate and communicate with the ATD program director;
 3. Submit individualized written plan of care to include, but not limited to, assessment, diagnosis, treatment goals, discharge criteria, and recommendations for continuing recovery; and
 4. Meet all regulatory requirements in their respective state.

HISTORY: Adopted: January 1, 2018

SECTION V DISCHARGE FROM PROGRAM

- A. A participant shall be discharged from the ATD program upon:
1. Successful completion of all terms and conditions of the ATD program contract; or
 2. Demonstration of noncompliance with the terms and conditions of the contract.
- B. If discharged from the ATD program for noncompliance, the ~~licensee~~ **participant** shall immediately surrender their licensure ~~or certification~~, accept a consent agreement, or be scheduled for a Board hearing.
- C. Participation in the ATD program does not preclude the Board from commencing any disciplinary action against a participant who is discharged from the ATD program or receives additional complaints.
- D. A participant may transfer to another state's alternative program if it is substantively similar and approved by the Arkansas ATD program director.
- E. If the participant voluntarily withdraws from the program, he/she shall immediately surrender his/her ~~license or certification~~ **nursing licensure**.

HISTORY: Adopted: January 1, 2018
Amended: 2023

SECTION VI REPORTING TO THE BOARD

The ATD program director shall make the following information available to the board:

- A. Names and results of any contact or investigation regarding an impaired ~~individual~~ **nurse** who is believed to be a danger to the public;
- B. Names of participants who:
1. Fail to comply with the terms and conditions of the contract;
 2. Refuse to cooperate with the ATD program director; or
 3. Voluntarily withdraw or involuntarily discharge from the program;
- C. An annual evaluation of the program; and

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D. Other information and data as requested by the Board.

HISTORY: Adopted: January 1, 2018
Amended: 2023

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 279

5 By: Senators Irvin, J. Boyd
6 By: Representative Wooldridge
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ALTERNATIVE TO DISCIPLINE ACT; TO
10 BROADEN THE ALTERNATIVE TO DISCIPLINE ACT TO APPLY TO
11 NON-NURSES REGULATED BY THE ARKANSAS STATE BOARD OF
12 NURSING; AND FOR OTHER PURPOSES.
13

Subtitle

14
15
16 TO AMEND THE ALTERNATIVE TO DISCIPLINE
17 ACT; AND TO BROADEN THE ALTERNATIVE TO
18 DISCIPLINE ACT TO APPLY TO NON-NURSES
19 REGULATED BY THE ARKANSAS STATE BOARD OF
20 NURSING.
21

22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

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

27 17-87-802. Purpose.

28 The purpose of this subchapter is to:

29 (1) Provide for the identification and treatment of ~~nurses~~
30 individuals licensed or certified by the Arkansas State Board of Nursing who
31 suffer from impairments;

32 (2) Promote public health and safety; and

33 (3) Ensure the continued availability of the skills of highly
34 trained ~~nursing~~ healthcare professionals for the benefit of the public.
35

36 17-87-803. Definitions.



1 As used in this subchapter:

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

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

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

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

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

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

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

21

22 17-87-804. Alternative to discipline program – Program coordinator
23 duties – Board review.

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

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

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

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

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

35 (2) Contract with providers of treatment programs;

36 (3) Receive and evaluate reports of suspected impairment,

1 regardless of the source of the report;

2 (4) Intervene in cases of verified impairment;

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

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

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

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

13 (2) The program coordinator shall:

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

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

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

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

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

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

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

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

32

33 17-87-805. Reporting procedure.

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

36 (1) Reporting to the board:

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

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

5 (i) Fails or refuses to:

6 (a) Cooperate with the program coordinator; or

7 (b) Submit to treatment;

8 (ii) Exhibits professional incompetence; or

9 (iii) Does not have alleviation through treatment

10 for his or her impairment; and

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

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

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

19
20 17-87-806. Program requirements.

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

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

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

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

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

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

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

32 (1) Agree to:

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

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

1 can safely practice ~~nursing~~;

2 (C) Comply with:

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

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

7 (D) Pay all costs for treatment and monitoring;

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

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

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

15
16 17-87-807. Failure to comply.

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

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

23
24 17-87-808. Liability.

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

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

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

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

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

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(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