

ARKANSAS STATE MEDICAL BOARD



ARKANSAS MEDICAL PRACTICES ACT & REGULATIONS

IMPAIRED PHYSICIAN AND DENTIST TREATMENT ACT

17-80-201. Short title.

This subchapter shall be known as the "Impaired Physician and Dentist Treatment Act".

HISTORY: Acts 1993, No. 1220, § 1.

17-80-202. Purpose.

The purpose of this subchapter is to provide for the identification and treatment of physicians and dentists licensed under the Arkansas Medical Practices Act, § 17-95-201 et. seq., § 17-95-301 et. seq., and § 17-95-401

et. seq., 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. **HISTORY:** Acts 1993, No. 1220, § 2.

17-80-203. Definitions.

For purposes of this subchapter:

(1) "Board" means the Arkansas State Medical Board with reference to physicians and the Arkansas State Board of Dental Examiners with reference to dentists;

(2) "Dentists' health committee" means a dentist committee of the Arkansas State Dental Association composed of dentists who have expertise in the area of alcoholism, drug abuse, or mental illness, and that has been designated by the Arkansas State Dental Association to perform any and all of the activities set forth in subdivision (4) of this section;

(3) "Impaired" or "impairment" means the presence of the diseases of alcoholism, drug abuse, or mental illness;

(4) "Impaired dentist program" means the Arkansas State Dental Association-sponsored program for the detection, intervention, and monitoring of impaired dentists;

(5) "Impaired physician program" means the Arkansas Medical Society-sponsored program for the detection, intervention, and monitoring of impaired physicians;

(6) "Physicians' health committee" means a physician committee of the Arkansas Medical Society composed of physicians who have expertise in the area of alcoholism, drug abuse, or mental illness, and that has been designated by the Arkansas Medical Society to perform any and all activities set forth in subdivision (3) of this section;

(7) (A) "Professional incompetence" means the inability or failure of a physician or dentist to practice his or her respective professions with reasonable skill and safety.

(B) Impairment in and of itself shall not give rise to a presumption of professional incompetence; and

(C) "Treatment program" means a plan of care and rehabilitation services provided by those organizations and persons authorized to provide such services for impaired physicians and dentists taking part in the programs provided under this subchapter.

HISTORY: Acts 1993, No. 1220, § 3.

17-80-204. Authority.

The Arkansas Medical Society shall have the authority to establish a physicians' health committee and the Arkansas State Dental Association shall have the authority to establish a dentists' health committee to undertake the functions and responsibilities to carry out the purposes of this subchapter and may include any of the following:

(1) Contracting with providers of treatment programs;

(2) Receiving and evaluating reports of suspected impairment from any source;

(3) Intervening in cases of verified impairment;

(4) Referring impaired physicians or dentists to treatment programs;

(5) Monitoring the treatment and rehabilitation of impaired physicians or dentists;

(6) Providing post treatment monitoring and support of rehabilitated impaired physicians and dentists; and

(7) Performing such other activities as the committees deem necessary to accomplish the purposes of this subchapter.

HISTORY: Acts 1993, No. 1220, § 4.

17-80-205. Procedures.

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.

HISTORY: Acts 1993, No. 1220, § 5.

17-80-206. Evaluations.

- (a) If the Arkansas State Medical Board has reason to believe that a physician is impaired or if the Arkansas State Board of Dental Examiners has reason to believe that a dentist is impaired, either board may cause an evaluation of the physician or dentist to be conducted by the appropriate committee for the purpose of determining if there is an impairment.
- (b) The physicians' health committee or the dentists' health committee shall report the findings of its evaluation to its respective board.

HISTORY: Acts 1993, No. 1220, § 6.

17-80-207. Request for restricted license.

- (a)
 - (1) An impaired physician or an impaired dentist may request in writing to the appropriate board for a restriction of his or her license to practice.
 - (2) The board may grant such a 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.
- (b) 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, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., or the Arkansas Dental Practice Act, § 17-82-101 et seq.

HISTORY: Acts 1993, No. 1220, § 7.

17-80-208. Confidentiality of records.

(a) (1) Notwithstanding any provision of state law, records of the physicians' health committee pertaining to an impaired physician and all records of the dentists' health committee pertaining to an impaired dentist shall be kept confidential and are not subject to discovery or subpoena.

(2) No person in attendance at any meeting of the physicians' health committee or the dentists' health committee shall be required to testify as to any committee discussions or proceedings.

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

HISTORY: Acts 1993, No. 1220, § 8.

17-80-209. Participation in treatment program.

An impaired physician who is participating in or has successfully completed a treatment program pursuant to this subchapter shall not be excluded from any hospital staff solely because of such participation.

HISTORY: Acts 1993, No. 1220, § 9.

17-80-210. Limitation on liability.

(a) Notwithstanding any other provisions of law, the Arkansas Medical Society, the Arkansas Osteopathic Medical Association, the physicians' health committee and members thereof, the Arkansas State Dental Association, and the dentists' health committee and members thereof shall not be held liable in damages to any person for any acts, omissions, or recommendations made by them in good faith while acting within the scope of their responsibilities pursuant to this subchapter.

(b) No person who in good faith and without malice makes a report to the physicians' health committee or to the dentists' health committee shall be liable for damages to any person.

HISTORY: Acts 1993, No. 1220, § 10; 2001, No. 929, § 1.