



General Assembly

**Amendment**

February Session, 2006

LCO No. 4837

**\*HB0571804837HDO\***

Offered by:

REP. SAYERS, 60<sup>th</sup> Dist.  
SEN. MURPHY, 16<sup>th</sup> Dist.  
SEN. SLOSSBERG, 14<sup>th</sup> Dist.  
REP. MALONE, 47<sup>th</sup> Dist.

To: Subst. House Bill No. 5718

File No. 399

Cal. No. 264

**"AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTH CARE PROFESSIONALS."**

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1 Strike lines 1 to 80, inclusive, in their entirety and insert the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

4 (1) "Chemical dependency" means abusive or excessive use of  
5 drugs, including alcohol, narcotics or chemicals, that results in  
6 physical or psychological dependence;

7 (2) "Department" means the Department of Public Health;

8 (3) "Health care professionals" includes any person licensed  
9 pursuant to chapter 370, 372, 373, 375, 375a, 376, 376a, 376b, 376c, 377,  
10 378, 379, 379a, 380, 381, 381a, 383, 383a, 383b, 383c, 384, 384a, 384b,  
11 384c, 384d, 398 or 399 of the general statutes;

12 (4) "Medical review committee" means any committee of a state or  
13 local professional society or membership organization of health care  
14 professionals or any combination thereof, that reviews and monitors  
15 participation by health care professionals in assistance programs; and

16 (5) "Assistance program" means a program, including a medical  
17 review committee described in section 19a-17b of the general statutes,  
18 established by a state or local professional society or membership  
19 organization of health care professionals to provide education,  
20 prevention, intervention, referral assistance and support services to  
21 health care professionals and persons who have applied to become a  
22 health care professional who have a chemical dependency, emotional  
23 or behavioral disorder or physical or mental illness.

24 (b) A state or local professional society or membership organization  
25 of health care professionals or any combination thereof, may establish  
26 a health care professional assistance program, provided the assistance  
27 program (1) operates in compliance with the provisions of this section,  
28 and (2) establishes a medical review committee that complies with the  
29 applicable provisions of subsections (c) to (f), inclusive, of this section.  
30 The program shall (A) be an alternative, voluntary and confidential  
31 opportunity for the rehabilitation of health care professionals and  
32 persons who have applied to become health care professionals, and (B)  
33 include mandatory, periodic evaluations of each participant's ability to  
34 practice with skill and safety and without posing a threat to the health  
35 and safety of any person or patient in the health care setting.

36 (c) Prior to admitting a health care professional into an assistance  
37 program established pursuant to subsection (b) of this section, a  
38 medical review committee shall (1) determine if the health care  
39 professional is an appropriate candidate for rehabilitation and  
40 participation in the program, and (2) establish the participant's terms  
41 and conditions for participating in the program. No action taken by the  
42 medical review committee pursuant to this subsection shall be  
43 construed as the practice of medicine or mental health care.

44 (d) The medical review committee shall not refer to the program  
45 established pursuant to subsection (b) of this section any health care  
46 professional who has pending disciplinary charges, prior history of  
47 disciplinary action or a consent order by any professional licensing or  
48 disciplinary body or has been charged with or convicted of a felony  
49 under the laws of this state, or of an offense that, if committed within  
50 this state, would constitute a felony. The medical review committee  
51 shall refer such health care professional to the department and shall  
52 submit to the department all records and files maintained by the  
53 assistance program concerning such health care professional. Upon  
54 such referral, the department shall determine if the health care  
55 professional is eligible for intervention, referral assistance or support  
56 services and whether participation in such intervention, referral  
57 assistance or support services should be treated as confidential  
58 pursuant to subsection (h) of this section. The department may seek  
59 the advice of professional health care societies or organizations and  
60 assistance programs in determining what referral assistance,  
61 rehabilitation program or support services are appropriate for such  
62 health care professional.

63 (e) Any health care professional participating in an assistance  
64 program established pursuant to subsection (b) of this section shall  
65 immediately notify the assistance program upon (1) being made aware  
66 of the filing of any disciplinary charges or the taking of any  
67 disciplinary action against such health care professional by a  
68 professional licensing or disciplinary body, or (2) being charged with  
69 or convicted of a felony under the laws of this state, or of an offense  
70 that, if committed within this state, would constitute a felony. The  
71 assistance program shall regularly review available sources to  
72 determine if disciplinary charges have been filed, or disciplinary action  
73 has been taken, or felony charges have been filed or substantiated  
74 against any health care professional who has been admitted to the  
75 assistance program. Upon such notification, the assistance program  
76 shall refer such health care professional to the department and shall  
77 submit to the department all records and files maintained by the

78 assistance program concerning such health care professional. Upon  
79 such referral, the department shall determine if the health care  
80 professional is eligible to continue participating in the assistance  
81 program and whether such participation should be treated as  
82 confidential in accordance with subsection (h) of this section. The  
83 department may seek the advice of professional health care societies or  
84 organizations and assistance programs in determining what  
85 intervention, referral assistance, rehabilitation or support services are  
86 appropriate for such health care professional.

87 (f) The medical review committee shall not refer to the program  
88 established pursuant to subsection (b) of this section any health care  
89 professional who is alleged to have harmed a patient. Upon being  
90 made aware of such allegation of harm the medical review committee  
91 shall refer such health care professional to the department and shall  
92 submit to the department all records and files maintained by the  
93 assistance program concerning such health care professional. Such  
94 referral may include recommendations as to what intervention, referral  
95 assistance or support services are appropriate for such health care  
96 professional. Upon such referral, the department shall determine if the  
97 health care professional is eligible for intervention, referral assistance  
98 or support services and, if so, whether such intervention, referral  
99 assistance or support services should be provided in a confidential  
100 manner in accordance with the provisions of subsection (h) of this  
101 section. The department may seek the advice of professional health  
102 care societies or organizations and assistance programs in determining  
103 what intervention, referral assistance or support services are  
104 appropriate for such health care professional.

105 (g) Each assistance program established pursuant to subsection (b)  
106 of this section shall report to the appropriate professional licensing  
107 board or commission on the number of health care professionals  
108 participating in the assistance program, the purposes for participating  
109 in the assistance program and whether participants are practicing  
110 health care with skill and safety and without posing a threat to the  
111 health and safety of any person or patient in the health care setting.

112 Annually, on or before December thirty-first, the assistance program  
113 shall report such information to the joint standing committee of the  
114 General Assembly having cognizance of matters relating to public  
115 health, in accordance with the provisions of section 11-4a of the  
116 general statutes.

117 (h) (1) All information given or received in connection with any  
118 intervention, rehabilitation referral assistance or support services  
119 provided pursuant to this section, including the identity of any health  
120 care professional seeking or receiving such intervention, rehabilitation  
121 referral assistance or support services shall:

122 (A) Be maintained by the assistance program in a confidential file  
123 which shall only be disclosed to persons who have a need to know, as  
124 determined by the assistance program; and

125 (B) Be confidential and shall not be disclosed to any person or entity  
126 not employed by the assistance program, unless disclosure is  
127 reasonably necessary in order to accomplish the purposes of such  
128 intervention, referral assistance or support services. Such information  
129 shall not be disclosed in any civil or criminal case or proceeding or in  
130 any legal or administrative proceeding, unless the health care  
131 professional seeking or obtaining intervention, referral assistance or  
132 support services waives such privilege or unless disclosure is  
133 otherwise required by law.

134 (2) The proceedings of a medical review committee established  
135 pursuant to this section shall not be subject to discovery or introduced  
136 into evidence in any civil action for or against a health care  
137 professional arising out of matters that are subject to evaluation and  
138 review by such committee, and no person who was in attendance at  
139 such proceedings shall be permitted or required to testify in any such  
140 civil action as to the content of such proceedings. Nothing in this  
141 subdivision shall be construed to preclude (A) in any civil action, the  
142 use of any writing recorded independently of such proceedings; (B) in  
143 any civil action, the testimony of any person concerning such person's

144 knowledge, acquired independently of such proceedings, about the  
145 facts that form the basis for the instituting of such civil action; (C) in  
146 any civil action arising out of allegations of patient harm caused by  
147 health care services rendered by a health care professional who, at the  
148 time such services were rendered, had been requested to refrain from  
149 practicing or whose practice of medicine or health care was restricted,  
150 the disclosure of such request to refrain from practicing or such  
151 restriction; or (D) in any civil action against a health care professional,  
152 disclosure of the fact that a health care professional participated in an  
153 assistance program, the dates of participation, the reason for  
154 participation and confirmation of successful completion of the  
155 program, provided a court of competent jurisdiction has determined  
156 that good cause exists for such disclosure after (i) notification to the  
157 health care professional of the request for such disclosure, and (ii) a  
158 hearing concerning such disclosure at the request of any party, and  
159 provided further, the court imposes appropriate safeguards against  
160 unauthorized disclosure or publication of such information.

161 (3) Nothing in this subsection shall be construed to prevent an  
162 assistance program from disclosing information in connection with  
163 administrative proceedings related to the imposition of disciplinary  
164 action against any health care professional referred to the department  
165 by an assistance program pursuant to subsection (d), (e), (f) or (i) of  
166 this section.

167 (i) If at any time, (1) an assistance program established pursuant to  
168 subsection (b) of this section, determines that a health care professional  
169 is not able to practice with skill and safety or poses a threat to the  
170 health and safety of any person or patient in the health care setting,  
171 and the health care professional does not refrain from practicing health  
172 care or fails to participate in a recommended program of rehabilitation,  
173 or (2) a health care professional who has been referred to an assistance  
174 program fails or refuses to participate in the assistance program, the  
175 assistance program shall refer the health care professional to the  
176 department and shall submit to the department all records and files  
177 maintained by the assistance program concerning such health care

178 professional.

179 (j) (1) Any physician, hospital or state or local professional society or  
180 organization of health care professionals that refers an individual for  
181 intervention to a program for physicians established pursuant to  
182 subsection (b) of this section shall be deemed to have satisfied the  
183 obligations imposed on the person or organization pursuant to  
184 subsection (a) of section 20-13d of the general statutes, with respect to  
185 a physician's inability to practice medicine with reasonable skill or  
186 safety due to chemical dependency, emotional or behavioral disorder  
187 or physical or mental illness.

188 (2) Any physician, physician assistant, hospital or state or local  
189 professional society or organization of health care professionals that  
190 refers an individual for intervention to a program for physician  
191 assistants established pursuant to subsection (b) of this section shall be  
192 deemed to have satisfied the obligations imposed on the person or  
193 organization pursuant to subsection (a) of section 20-12e of the general  
194 statutes, with respect to a physician assistant's inability to practice with  
195 reasonable skill or safety due to chemical dependency, emotional or  
196 behavioral disorder or physical or mental illness.

197 (k) Each assistance program established pursuant to subsection (b)  
198 of this section shall meet with the professional assistance oversight  
199 committee established under section 2 of this act on a regular basis, but  
200 not less than four times each year.

201 (l) On or before November 1, 2006, and annually thereafter, each  
202 assistance program established pursuant to subsection (d) of this  
203 section shall select a person determined to be qualified by the  
204 assistance program and the department to conduct an audit on the  
205 premises of the assistance program for the purpose of examining  
206 quality control of the program. On or after November 1, 2010, the  
207 department, with the agreement of the professional assistance  
208 oversight committee established under section 2 of this act, may waive  
209 the audit requirement, in writing. Any audit conducted pursuant to

210 this subsection shall consist of a random sampling of at least twenty  
211 per cent of the assistance program's files or ten files, whichever is  
212 greater. Prior to conducting the audit, the auditor shall agree in writing  
213 (1) not to copy any program files or records, (2) not to remove any  
214 program files or records from the premises, (3) to destroy all  
215 personally identifying information about health care professionals  
216 participating in the assistance program upon the completion of the  
217 audit, (4) not to disclose personally identifying information about  
218 health care professionals participating in the program to any person or  
219 entity other than a person employed by the assistance program who is  
220 authorized by such program to receive such disclosure, and (5) not to  
221 disclose in any audit report any personally identifying information  
222 about health care professionals participating in the assistance program.  
223 Upon completion of the audit, the auditor shall submit a written audit  
224 report to the assistance program, the professional assistance oversight  
225 committee established under section 2 of this act and the joint standing  
226 committee of the General Assembly having cognizance of matters  
227 relating to public health, in accordance with the provisions of section  
228 11-4a of the general statutes.

229 Sec. 2. (NEW) (*Effective from passage*) (a) The Department of Public  
230 Health shall establish a professional assistance oversight committee for  
231 health care professional assistance programs established pursuant to  
232 section 1 of this act concerning, but not limited to, quality assurance.  
233 The oversight committee shall consist of the following members: (1)  
234 Three members selected by the department, who are health care  
235 professionals with training and experience in mental health or  
236 addiction services, (2) three members selected by such assistance  
237 programs, who are not employees, board or committee members of  
238 any assistance program and who are health care professionals with  
239 training and experience in mental health or addiction services, and (3)  
240 one member selected by the Department of Mental Health and  
241 Addiction Services who is a health care professional.

242 (b) Assistance programs established pursuant to section 1 of this act  
243 shall provide administrative support to the oversight committee.

244 (c) Beginning January 1, 2007, the oversight committee shall meet  
245 with assistance programs on a regular basis, but not less than four  
246 times each year.

247 (d) The oversight committee may request and shall be entitled to  
248 receive copies of files or such other assistance program records it  
249 deems necessary, provided all information pertaining to the identity of  
250 any health care professional shall first be redacted by the assistance  
251 program. No member of the oversight committee may copy, retain or  
252 maintain any such redacted records. If the oversight committee  
253 determines that a health care professional is not able to practice with  
254 skill and safety or poses a threat to the health and safety of any person  
255 or patient in the health care setting, and the health care professional  
256 has not refrained from practicing health care or has failed to  
257 participate in a recommended program of rehabilitation, the oversight  
258 committee shall notify the assistance program to refer the health care  
259 professional to the department. Upon such notification, the assistance  
260 program shall refer the health care professional to the department, in  
261 accordance with the provisions of subsection (i) of section 1 of this act.

262 (e) Records created for, by or on behalf of the oversight committee  
263 shall not be deemed public records and shall not be subject to the  
264 provisions of section 1-210 of the general statutes. Such records shall be  
265 treated as confidential in accordance with the provisions of subsection  
266 (h) of section 1 of this act.

267 (f) The proceedings of the oversight committee shall not be subject  
268 to discovery or introduced into evidence in any civil action for or  
269 against a health care professional arising out of matters that are subject  
270 to evaluation and review by such committee, and no person who was  
271 in attendance at such proceedings shall be permitted or required to  
272 testify in any such civil action as to the content of such proceedings.  
273 Nothing in this subdivision shall be construed to preclude (1) in any  
274 civil action, the use of any writing recorded independently of such  
275 proceedings; (2) in any civil action, the testimony of any person  
276 concerning such person's knowledge, acquired independently of such

277 proceedings, about the facts that form the basis for the instituting of  
278 such civil action; (3) in any civil action arising out of allegations of  
279 patient harm caused by health care services rendered by a health care  
280 professional who, at the time such services were rendered, had been  
281 requested to refrain from practicing or whose practice of medicine or  
282 health care was restricted, the disclosure of such request to refrain  
283 from practicing or such restriction; or (4) in any civil action against a  
284 health care professional, disclosure of the fact that a health care  
285 professional participated in an assistance program, the dates of  
286 participation, the reason for participation and confirmation of  
287 successful completion of the program, provided a court of competent  
288 jurisdiction has determined that good cause exists for such disclosure  
289 after (A) notification to the health care professional of the request for  
290 such disclosure, and (B) a hearing concerning such disclosure at the  
291 request of any party, and provided further, the court imposes  
292 appropriate safeguards against unauthorized disclosure or publication  
293 of such information."