



General Assembly

January Session, 2007

**Raised Bill No. 7155**

LCO No. 3988

\*03988 \_\_\_\_\_ PH\_\*

Referred to Committee on Public Health

Introduced by:  
(PH)

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:
- 2 (1) "Chemical dependency" means abusive or excessive use of  
3 drugs, including alcohol, narcotics or chemicals, that results in  
4 physical or psychological dependence;
- 5 (2) "Department" means the Department of Public Health;
- 6 (3) "Health care professionals" includes any person licensed  
7 pursuant to chapter 370, 372, 373, 375, 375a, 376, 376a, 376b, 376c, 377,  
8 378, 379, 379a, 380, 381, 381a, 383, 383a, 383b, 383c, 384, 384a, 384b,  
9 384c, 384d, 385, 398 or 399 of the general statutes;
- 10 (4) "Medical review committee" means any committee described in  
11 section 19a-17b of the general statutes that reviews and monitors  
12 participation by health care professionals in assistance programs; and
- 13 (5) "Assistance program" means a program established by a state or

14 local professional society or membership organization of health care  
15 professionals to provide education, prevention, intervention, referral  
16 assistance, rehabilitation or support services to health care  
17 professionals who have a chemical dependency, emotional or  
18 behavioral disorder or physical or mental illness.

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

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

39 (d) The medical review committee shall not refer to an assistance  
40 program established pursuant to subsection (b) of this section any  
41 health care professional who has pending disciplinary charges, prior  
42 history of disciplinary action or a consent order by any professional  
43 licensing or disciplinary body or has been charged with or convicted of  
44 a felony under the laws of this state, or of an offense that, if committed  
45 within this state, would constitute a felony. The medical review

46 committee shall refer such health care professional to the department  
47 and shall submit to the department all records and files maintained by  
48 the review committee or the assistance program, or both, concerning  
49 such health care professional. Upon such referral, the department shall  
50 determine if the health care professional is eligible to participate in an  
51 assistance program and whether such participation should be treated  
52 as confidential pursuant to subsection (h) of this section. The  
53 department may seek the advice of professional health care societies or  
54 organizations and assistance programs in determining what  
55 intervention, referral assistance, rehabilitation or support services are  
56 appropriate for such health care professional.

57 (e) Any health care professional participating in an assistance  
58 program established pursuant to subsection (b) of this section shall  
59 immediately notify the assistance program upon (1) being made aware  
60 of the filing of any disciplinary charges or the taking of any  
61 disciplinary action against such health care professional by a  
62 professional licensing or disciplinary body, or (2) being charged with  
63 or convicted of a felony under the laws of this state, or of an offense  
64 that, if committed within this state, would constitute a felony. The  
65 assistance program shall regularly review available sources to  
66 determine if disciplinary charges have been filed, or disciplinary action  
67 has been taken, or felony charges have been filed or substantiated  
68 against any health care professional who has been admitted to the  
69 assistance program. Upon such notification, the assistance program  
70 shall refer such health care professional to the department and shall  
71 submit to the department all records and files maintained by the  
72 assistance program concerning such health care professional. Upon  
73 such referral, the department shall determine if the health care  
74 professional is eligible to continue participating in the assistance  
75 program and whether such participation should be treated as  
76 confidential in accordance with subsection (h) of this section. The  
77 department may seek the advice of professional health care societies or  
78 organizations and assistance programs in determining what  
79 intervention, referral assistance, rehabilitation or support services are

80 appropriate for such health care professional.

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

99 (g) Each assistance program established pursuant to subsection (b)  
100 of this section shall report annually to the appropriate professional  
101 licensing board or commission or, in the absence of such board or  
102 commission, to the Department of Public Health on the number of  
103 health care professionals participating in the assistance program, the  
104 purposes for participating in the assistance program and whether  
105 participants are practicing health care with skill and safety and  
106 without posing a threat to the health and safety of any person or  
107 patient in the health care setting. Annually, on or before December  
108 thirty-first, the assistance program shall report such information to the  
109 joint standing committee of the General Assembly having cognizance  
110 of matters relating to public health, in accordance with the provisions  
111 of section 11-4a of the general statutes.

112 (h) (1) All information given or received in connection with any  
113 intervention, rehabilitation, referral assistance or support services  
114 provided by an assistance program pursuant to this section, including  
115 the identity of any health care professional seeking or receiving such  
116 intervention, rehabilitation, referral assistance or support services shall  
117 be maintained by the assistance program in a file which shall be kept  
118 confidential and shall only be disclosed in accordance with this  
119 subsection. Such information may be disclosed: (A) To a person or  
120 entity employed by the assistance program, provided such disclosure  
121 is necessary for purposes of such program; (B) to another person or  
122 entity if the assistance program determines that disclosure is necessary  
123 in order to accomplish the purposes of such intervention,  
124 rehabilitation, referral assistance or support services; (C) in a civil or  
125 criminal case or other legal or administrative proceeding, in  
126 accordance with subdivision (2) of this subsection or subsection (f) of  
127 section 2 of this act or if the health care professional seeking or  
128 obtaining intervention, rehabilitation, referral assistance or support  
129 services authorizes such disclosure or; (D) in connection with  
130 administrative proceedings related to the imposition of disciplinary  
131 action against any health care professional referred to the department  
132 by an assistance program pursuant to subsection (d), (e), (f) or (i) of  
133 this section; (E) for purposes of an audit in accordance with subsection  
134 (l) of this section; or (F) if disclosure is otherwise required by law.

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

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

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

174 (j) (1) Any physician, hospital or state or local professional society or  
175 organization of health care professionals that refers an individual for  
176 intervention to an assistance program for physicians established  
177 pursuant to subsection (b) of this section shall be deemed to have  
178 satisfied the obligations imposed on the person or organization

179 pursuant to subsection (a) of section 20-13d of the general statutes,  
180 with respect to a physician's inability to practice medicine with  
181 reasonable skill or safety due to chemical dependency, emotional or  
182 behavioral disorder or physical or mental illness.

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

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

196 (l) On or before November 1, 2007, and annually thereafter, each  
197 assistance program established pursuant to subsection (b) of this  
198 section shall select a person determined to be qualified by the  
199 assistance program and the department to conduct an audit on the  
200 premises of the assistance program for the purpose of examining  
201 quality control of the program. On or after November 1, 2011, the  
202 department, with the agreement of the professional assistance  
203 oversight committee established under section 2 of this act, may waive  
204 the audit requirement, in writing. Any audit conducted pursuant to  
205 this subsection shall consist of a random sampling of at least twenty  
206 per cent of the assistance program's files or ten files, whichever is  
207 greater. Prior to conducting the audit, the auditor shall agree in writing  
208 (1) not to copy any program files or records, (2) not to remove any  
209 program files or records from the premises, (3) to destroy all  
210 personally identifying information about health care professionals

211 participating in the assistance program upon the completion of the  
212 audit, (4) not to disclose personally identifying information about  
213 health care professionals participating in the program to any person or  
214 entity other than a person employed by the assistance program who is  
215 authorized by such program to receive such disclosure, and (5) not to  
216 disclose in any audit report any personally identifying information  
217 about health care professionals participating in the assistance program.  
218 Upon completion of the audit, the auditor shall submit a written audit  
219 report to the assistance program, the professional assistance oversight  
220 committee established under section 2 of this act and the joint standing  
221 committee of the General Assembly having cognizance of matters  
222 relating to public health, in accordance with the provisions of section  
223 11-4a of the general statutes.

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

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

240       (c) Beginning January 1, 2008, the oversight committee shall meet  
241 with assistance programs on a regular basis, but not fewer than four  
242 times each year.

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

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

263 (f) The proceedings of the oversight committee shall not be subject  
264 to discovery or introduced into evidence in any civil action for or  
265 against a health care professional arising out of matters that are subject  
266 to evaluation and review by such committee, and no person who was  
267 in attendance at such proceedings shall be permitted or required to  
268 testify in any such civil action as to the content of such proceedings.  
269 Nothing in this subdivision shall be construed to preclude (1) in any  
270 civil action, the use of any writing recorded independently of such  
271 proceedings; (2) in any civil action, the testimony of any person  
272 concerning such person's knowledge, acquired independently of such  
273 proceedings, about the facts that form the basis for the instituting of  
274 such civil action; (3) in any civil action arising out of allegations of  
275 patient harm caused by health care services rendered by a health care

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

**Statement of Purpose:**

To authorize state or local professional societies and organizations of health care professionals to establish programs for rehabilitating impaired health care professionals.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*