

Connecticut General Statute Sec. 19a-12a. Professional assistance program for regulated professionals. Definitions. Program requirements. Referrals to Department of Public Health. Notification of disciplinary action against program participants. Annual reporting requirements. Confidentiality. Annual audit. (a) As used in this section and section 19a-12b:

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

(2) “Departments” means the Department of Public Health;

(3) “Health care professionals” includes any person licensed or who holds a permit pursuant to chapter 370, 372, 373, 375, 375a, 376, 376a, 376b, 376c, 377, 378, 379, 379a, 380, 381, 381a, 383, 383a, 383b, 383c, 384, 384a, 384b, 384c, 384d, 385, 398, or 399;

(4) “Medical review committee” means any committee that reviews and monitors participation by health care professionals in the assistance program, including a medical review committee described in section 19a-17b; and

(5) “Assistance program” means the program established pursuant to subsection (b) of this section to provide education, prevention, intervention, referral assistance, rehabilitation or support services to health care professionals who have a chemical dependency, emotional or behavioral disorder or physical or mental illness.

(b) State or local professional societies or membership organizations of health care professionals or any combination thereof, may establish a single assistance program to serve all health care professionals, provided the assistance program (1) operates in compliance with the provisions of this section, and (2) includes one or more medical review committees that comply with the applicable provisions of subsections (c) to (f), inclusive, of this section. The program shall (A) be an alternative, voluntary and confidential opportunity for the rehabilitation of health care professionals and persons who have applied to become health care professionals, and (B) include mandatory, periodic evaluations of each participant’s ability to practice with skill and safety and without posing a threat to the health and safety of any person or patient in the health care setting.

(c) Prior to admitting a health care professional into the assistance program, a medical review committee shall (1) determine if the health care professional is an appropriate candidate for rehabilitation and participation in the program, and (2) establish the participant’s terms and conditions for participating in the program. No action taken by the medical review committee pursuant to this subsection shall be constructed as the practice of medicine or mental health care.

(d) A medical review committee shall not admit into the assistance program any health care professional who has pending disciplinary charges, prior history of disciplinary action or a consent order by any professional licensing or disciplinary body or has been charged with or convicted of a felony under the laws of this state, or of an offense that, if committed within this state, would constitute a felony. A medical review committee shall refer such health care professional to the department and shall submit to the department all records and files maintained by the assistance program concerning such health care professional. Upon such referral, the department shall determine if the health care professional is eligible to participate in the assistance program and whether such participation should be treated as confidential pursuant to subsection (h) of this section. The department may seek the advice of professional health care societies or organizations and the assistance program in determining what intervention, referral assistance rehabilitation or

support services are appropriate for such health care professional. If the department determines that the health care professional is an appropriate candidate for confidential participation in the assistance program, the entire record of the referral and investigation of the health care professional shall be confidential and shall not be disclosed, except at the request of the health care professional, for the duration of the health care professional's participation in and upon successful completion of the program, provided such participation is in accordance with terms agreed upon by the department, the health care professional and the assistance program.

(e) Any health care professional participating in the assistance program shall immediately notify the assistance program upon (1) being made aware of the filing of any disciplinary charges or the taking of any disciplinary action against such health care professional by a professional licensing or disciplinary body, or (2) being charged with or convicted of a felony under the laws of this state, or of an offense that, if committed within this state, would constitute a felony. The assistance program shall regularly review available sources to determine if disciplinary charges have been filed, or disciplinary action as been taken, or felony charges have been filed or substantiated against any health care professional who has been admitted to the assistance program. Upon such notification, the assistance program shall refer such health care professional to the department and shall submit to the department all records and files maintained by the assistance program concerning such health care professional. Upon such referral, the department shall determine if the health care professional is eligible to continue participating in the assistance program and whether such participation should be treated as confidential in accordance with subsection (h) or this section. The department may seek the advice of professional health care societies or organizations and assistance program in determining what intervention, referral assistance, rehabilitation or support services are appropriate for such health care professionals. If the department determines that the health care professional is an appropriate candidate for confidential participation in the assistance program, the entire record of the referral and investigation of the health care professional shall be confidential and shall not be disclosed, except at the request of the health care professional, for the duration of the health care professional's participation in and upon successful completion of the program, provided such participation is in accordance with terms agreed upon by the department, the health care professional and the assistance program.

(f) A medical review committee shall not admit into the assistance program any health care professional who is alleged to have harmed a patient. Upon being made aware of such allegation of harm a medical review committee and the assistance program shall refer such health care professional to the department and shall submit to the department all records and files maintained by the assistance program concerning such health care professional. Such referral may include recommendations as to what intervention, referral assistance, rehabilitation or support services are appropriate for such health care professional. Upon such referral, the department shall determine if the health care professional is eligible to participate in the assistance program and whether such participation should be provided in a confidential manner in accordance with the provisions of subsection (h) of this section. The department may seek the advice of professional health care societies or organizations and the assistance program in determining what intervention, referral assistance, rehabilitation or support services are appropriate for such health care professional. If the department determines that the health care professional is an appropriate candidate for confidential participation in the assistance program, the entire record of the referral and investigation of the health care professional shall be confidential and shall not be disclosed, except at the request of the health care professional, for the duration of the health care professional's participation in and upon successful completion of the program, provided such participation is in accordance with terms agreed upon by the department, the health care professional and the assistance program.

(g) The assistance program shall report annually to the appropriate professional licensing board or commission or, in the absence of such board or commission, to the Department of Public Health on the number of health care professionals participating in the assistance program who are under the jurisdiction of such board or commission or in the absence of such board or commission, the department, the purposes for participating in the assistance program and whether participants are practicing health care with skill and safety and without posing a threat to the health and safety of any person or patient in the health care setting. Annually, on or before December thirty-first, the assistance program shall report such information to the joint standing committee of the General Assembly having cognizance of matters relating to public health, in accordance with the provisions of 11- 4a.

(h) (1) All information given or received in connection with any intervention, rehabilitation, referral assistance or support services provided by the assistance program pursuant to this section, including the identity of any health care professional seeking or receiving such intervention, rehabilitation, referral assistance or support services shall be confidential and shall not be disclosed (A) to any third person or entity, unless disclosure is reasonably necessary for the accomplishment of the purposes of such intervention, rehabilitation, referral assistance or support services or for the accomplishment of an audit in accordance with subsection (l) of this section, or (B) in any civil or criminal case or proceeding or in any legal or administrative proceeding, unless the health care professional seeking or obtaining intervention, rehabilitation, referral assistance or support services waives the confidentiality privilege under this subsection or unless disclosure is otherwise required by law, Unless a health care professional waives the confidentiality privilege under this subsection or disclosure is otherwise required by law, no person in any civil or criminal case or proceeding or in any legal or administrative proceeding may request or require any information given or received in connection with the intervention, rehabilitation, referral assistance or support services provided pursuant to this section.

(2) The proceedings of a medical review committee shall not be subject to discovery or introduced into evidence in any civil action for or against a health care professional arising out of matters that are subject to evaluations and review by such committee, and no person who was in attendance at such proceedings shall be permitted or required to testify in any such civil action as to the content of such proceedings. Nothing in this subdivision shall be construed to preclude (A) in any civil action, the use of any writing recorded independently of such proceedings; (B) in any civil action, the testimony of any person concerning such person's knowledge, acquired independently of such proceedings, about the facts that form the basis for the instituting of such civil action; (C) in any civil action arising out of allegations of patient harm caused by health care services rendered by a health care professional who, at the time such services were rendered, had been requested to refrain from practicing or whose practice of medicine or health care was restricted, the disclosure of such request to refrain from practicing or such restriction; or (D) in any civil action against a health care professional, disclosure or the fact that a health care professional participated in the assistance program, the dates of participation, the reason for participation and confirmation of successful completion of the program, provided a court of competent jurisdiction has determined that good cause exists for such disclosure after (i) notification to the health care professional of the request for such disclosure, and (ii) a hearing concerning such disclosure at the request of any party, and provided further, the court imposes appropriate safeguards against unauthorized disclosure or publication of such information.

(3) Nothing in this subsection shall be construed to prevent the assistance program from disclosing information in connection with administrative proceedings related to the imposition of disciplinary action against any health care professional referred to the department by the assistance program

pursuant to subsection (d), (e), (f), or (i) of this section or by the Professional Assistance Oversight Committee pursuant to subsection (e) of section 19a-12b.

(i) If at any time, (1) the assistance program determines that a health care professional is not able to practice with skill and safety or poses a threat to the health and safety of any person or patient in the health care setting and the health care professional does not refrain from practicing health care or fails to participate in a recommended program of rehabilitation, or (2) a health care professional who has been referred to the assistance program fails to comply with terms or conditions of the program or refuses to participate in the program, the assistance program shall refer the health care professional to the department and shall submit to the department all records and files maintained by the assistance program concerning such health care professional. Upon such referral, the department shall determine if the health care professional is eligible to participate in the assistance program and whether such participation should be provided in a confidential manner in accordance with the provisions of subsection (h) of this section. The department may seek the advice of professional health care societies or organizations and the assistance program in determining what intervention, rehabilitation, referral assistance or support services are appropriate for such health care professional. If the department determines that the health care professional is an appropriate candidate for the confidential participation in the assistance program, the entire record of the referral and investigation of the health care professional shall be confidential and shall not be disclosed, except at the request of the health care professional, for the duration of the health care professional's participation in and up [on successful completion of the program, provided such participation is in accordance with terms agreed upon by the department, the health care professional and the assistance program.

(j) (1) Any physician, hospital or state or local professional society or organization of health care professionals that refers a physician for intervention to the assistance program shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-13d, with respect to a physician's inability to practice medicine with reasonable skill or safety due to chemical dependency, emotional or behavioral disorder or physical or mental illness.

(2) Any physician, physician assistant, hospital or state or local professional society or organization of health care professionals that refers a physician assistant for intervention to the assistance program shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-12e, with respect to a physician assistant's inability to practice with reasonable skill or safety due to chemical dependency, emotional or behavioral disorder, or physical or mental illness.

(k) The assistance program established pursuant to subsection (b) of this section shall meet with the Professional Assistance Oversight Committee established under section 19a-12b on a regular basis, but not less than four times a year.

(l) On or before November 1, 2007, and annually thereafter, the assistance program shall select a person determined to be qualified by the assistance program and the department to conduct an audit on the premises of the assistance program for the purpose of examining quality control of the program and compliance with all requirements of this section. On or after November 1, 2011, the department, with the agreement of the Professional Assistance Oversight Committee established under 19a-12b, may waive the audit requirement, in writing. Any audit conducted pursuant to this subsection shall consist of a random sampling of at least twenty per cent of the assistance program's files or ten files, whichever is greater. Prior to conducting the audit, the auditor shall agree in writing (1) not to copy any program files or records, (2) not to remove any program files or records from

premises, (3) to destroy all personally identifying information about health care professionals participating in the assistance program upon the completion of the audit, (4) not to disclose personally identifying information about health care professionals participating in the program to any person or entity other than a person employed by the assistance program who is authorized by such program to receive such disclosure, and (5) not to disclose in any audit report any personally identifying information about health care professionals participating in the assistance program. Upon completion of the audit, the auditor shall submit a written audit report to the assistance program, the department, the Professional Assistance Oversight Committee established under section 19a-12b and the joint standing committee of the General Assembly having cognizance of matters relating to public health, in accordance with the provisions of section 11-4a.

(P.A. 07-103, S. 1.)

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