

AN ACT

*Codification
District of
Columbia
Code
2001 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish a rehabilitation program for impaired nurses licensed in the District of Columbia and a committee to supervise operation of the program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Nurse's Rehabilitation Program Act of 2000".

Sec. 2. Definitions.

(a) For the purposes of this act, the term:

- (1) "Board" means the District of Columbia Board of Nursing.
- (2) "Committee" means the Committee on Impaired Nurses.
- (3) "Contract" means a written agreement between the impaired nurse and the Committee providing the terms and conditions of the nurse's participation in the Program.
- (4) "Disciplinary action" means any proceeding which may lead to a fine or probation, or to reprimand, restriction, revocation, suspension, denial or other order relating to the licensure or certification of a nurse by the Board of Nursing.
- (5) "Impaired nurse" means a nurse who is unable to perform his or her professional responsibilities due to drug or alcohol dependency or mental illness.
- (6) "Licensed Nurse" means an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.
- (7) "Program" means the treatment and rehabilitation program for impaired nurses described in this act. Program shall also refer to the facility where program services shall be provided.
- (8) "Provider" means an experienced and licensed, registered, or certified individual approved by the Board.
- (9) "Treatment facility" means a facility for the treatment of impairments that meets the certification requirements of the District of Columbia's Department of Health, the Joint Commission on the Accreditation of Health Care Organizations, the Commission on the Accreditation of Rehabilitation Facilities, or other accrediting body approved by the Board.

Sec. 3. Formation of Committee on Impaired Nurses.

(a) A Committee on Impaired Nurses is established to supervise operation of the Program. The Committee shall be composed of 5 nurses licensed in the District of Columbia who shall be appointed by the Board. The Board may establish additional committees as may be necessary to perform the functions described in this act.

(b) All members of the Committee shall be knowledgeable about impairment and rehabilitation.

(c) The members of the Committee shall be appointed for a 3-year term, except in the first year of any Committee, when the terms shall be staggered. At the end of a term, a member shall continue to serve until a successor is appointed.

(d) A Committee member who is appointed after a term has begun, or to replace a former member of the Committee, shall serve for the rest of the term of his or her predecessor. The appointed member shall continue to serve until a successor is appointed.

(e) The Board may appoint a Committee member for successive terms.

(f) The Committee shall select a chairperson from among its members.

(g) The Board may remove a Committee member for cause.

(h) The Board shall review and approve all procedures established by the Committee.

Sec. 4. Committee meetings.

(a) The Committee shall determine where meetings are held and the frequency of meetings.

(b) Minutes of Committee meetings shall be confidential. Only Committee members shall have access to these documents.

(c) Records of the Committee shall be privileged and confidential, and shall not be disclosed. The records shall be used by the Committee only in the exercise of the proper functions of the Committee, as set forth in this act, and shall not be public records. The records shall not be subject to court order, except as provided in section 8, nor subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings, except those conducted by a health regulatory board.

(d) A majority of the members serving on the Committee shall be required to establish a quorum.

Sec. 5. Committee staff.

The Committee may employ staff or engage the services of a consultant to carry out its functions in accordance with the approved budget of the District of Columbia and as approved by the Board.

Sec. 6. Committee powers and duties.

In addition to the powers and duties set forth elsewhere in this act, the Committee shall:

- (1) Evaluate a nurse who requests participation in the Program according to the guidelines prescribed by the Committee and consider recommendations for a nurse's admission into the Program;
- (2) Designate and review facilities and providers to which nurses in the Program may be referred for treatment and services;
- (3) Receive and review information concerning a nurse participating in the Program;
- (4) Consider whether a nurse participating in the Program may safely continue or resume the practice of nursing;
- (5) Hold meetings, as necessary, to consider the requests of nurses to participate in the Program and the reports regarding nurses participating in the Program;
- (6) Establish rules and guidelines for the operation of the Program, including the evaluation of facilities and providers that provide treatment and services to nurses eligible to participate in the program;
- (7) Prepare reports to be submitted to the Board; and
- (8) Set forth in writing a rehabilitation program established for each nurse participating in the Program, including the requirements for supervision and surveillance.

Sec. 7. Notice of Program procedures.

Each nurse who requests to participate in the Program shall be informed in writing of the Program's procedures, including the rights and responsibilities of the nurse, and the consequences of noncompliance with the procedures, including suspension and termination of the nursing license.

Sec. 8. Disclosure of records.

- (a) The Committee may disclose records relating to an impaired nurse only:
 - (1) When disclosure of the information is essential to the intervention, treatment, or rehabilitation needs of the impaired nurse;
 - (2) When release of the information has been authorized in writing by the impaired nurse;
 - (3) To the Board, if the nurse fails to comply with the conditions of the contract;or
 - (4) Pursuant to an order issued by a court of competent jurisdiction.
- (b) A court shall order disclosure of records relating to an impaired nurse only upon a showing of good cause, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the potential for injury to the patient, to the nurse-patient relationship, and to the treatment services. In determining the extent to which any disclosure of all or any part of any record is necessary, the court shall impose appropriate protections against unauthorized

disclosures.

(c) The proceedings of the Committee which in any way pertain or refer to a specific nurse who may be, or who actually is, impaired and who may be or is, by reason of the impairment, subject to disciplinary action by the Board shall be excluded from the requirements of title II of the District of Columbia Administrative Procedure Act ("Freedom of Information Act"), and may be closed to the public. Such proceedings shall be privileged and confidential.

Sec. 9. Immunity from liability.

The members of the Committee shall be immune from liability in the exercise of their duties.

Sec. 10. Description of the Program.

- (a) Admission to the Program is voluntary.
- (b) A colleague, employer, or the Board may refer impaired nurses to the Program through a self-report, formal complaint.
- (c) A nurse requesting admission to the Program may not have:
 - (1) Caused an injury to an individual while practicing nursing;
 - (2) Malpractice litigation pending against him or her alleging that he or she caused an injury to an individual while practicing nursing; or
 - (3) Been arrested for diversion of controlled substances for sale or distribution.
- (d) The Committee and the nurse shall enter into a written contract that sets forth the requirements and conditions for the nurse's participation in the Program.
- (e) A nurse who fails to comply with the requirements and conditions of the written contract shall be reported to the Board for disciplinary action. The Board may take such action as described in section 514 of the District of Columbia Health Occupations Revision Act of 1985 (revocation, suspension, or denial of license or privilege, civil penalty, reprimand) against a nurse who is expelled from the rehabilitation program for noncompliance. The Board shall not be required to recommend a course of remediation, as described in section 514(c)(6) of the District of Columbia Health Occupations Revision Act of 1985, for a nurse who is expelled from a rehabilitation program. The license of a nurse who is expelled from the rehabilitation program for noncompliance may be immediately suspended or restricted as described in section 515 of the District of Columbia Health Occupations Revision Act of 1985 (summary action).
- (f) Evaluation of a nurse for participation in the Program shall be the responsibility of the Committee.
- (g) At the request of the Board, the Committee, in consultation with the treatment providers, may evaluate a nurse with a drug or alcohol abuse problem, or mental illness, for readiness to return to the practice of nursing.

(h) An impaired nurse who is participating in the rehabilitation program may voluntarily limit or surrender any license issued under the District of Columbia Health Occupations Revision Act of 1985 in accordance with section 518 of that act.

Sec. 11. Approval of treatment facilities.

(a) To qualify as a designated treatment facility to which a nurse in the Program may be referred, the treatment facility shall meet the following criteria:

(1) The treatment facility shall have a specific, identified contact person to whom the nurse can be referred for assistance;

(2) The treatment facility shall have convenient hours of operation;

(3) The costs of treatment services shall be clearly stated and defined to the Committee and to the nurse seeking assistance;

(4) Treatment and rehabilitation services shall be available and used in conjunction with appropriate individual and group therapy and other appropriate treatment modalities;

(5) The treatment facility shall have a provider who is available to conduct timely assessments and evaluations on site or at a convenient location;

(6) The treatment facility provider shall agree to submit written reports of the assessments and evaluations to the Committee within a designated period of time;

(7) The treatment facility provider shall agree to disclose to the Committee, upon request, all information in its possession regarding a nurse's impairment or disability and the nurse's participation in the treatment facility, in accordance with a signed release of information from the nurse;

(8) The treatment facility shall agree to submit progress reports at least quarterly and upon request, and immediately if a significant event should occur in treatment that is related to the issues of impairment or disability and its effect on the nurse's practice; and

(9) The treatment facility shall conduct random, supervised testing to screen for drug use. The treatment facility shall agree to make available all results of drug screens to the Committee, and shall agree to inform the Committee immediately should a drug screen be positive.

(b) The Committee shall evaluate the Program and participating treatment facilities at least annually to ensure that the criteria listed in subsection (a) of this section are maintained.

Sec. 12. Maintenance of records.

(a) Records shall be confidential and maintained in a locked file in the office of the Board.

(b) A nurse's records shall be destroyed 2 years after the nurse's satisfactory discharge from the Program.

Sec. 13. Nurses leaving the District of Columbia or applying for licensure in another state.

(a) A nurse participating in the Program who moves to a jurisdiction where a rehabilitation program is in place and applies for licensure in that jurisdiction shall be transferred to that jurisdiction's rehabilitation program.

(b) A nurse participating in the Program who moves to a jurisdiction where there is no rehabilitation program and applies for licensure in that jurisdiction shall have his or her records transferred to that jurisdiction's equivalent of the Board.

(c) Whenever a nurse who applies for licensure in another jurisdiction continues to practice nursing in the District of Columbia:

(1) If the jurisdiction has a rehabilitation program in place, the program shall be notified that the nurse is participating in a rehabilitation program in the District of Columbia; or

(2) If there is no rehabilitation program in the jurisdiction, the jurisdiction's equivalent of the Board shall be notified that the nurse is participating in a rehabilitation program in the District of Columbia.

Sec. 14. Information booklet.

The Committee shall publish an informational booklet describing the Program for the public. The booklet shall be updated as may be necessary.

Sec. 15. Reports to the Board.

(a) The Board shall require reports from the Committee annually and at such other times as it believes may be necessary and appropriate. The reports shall include:

(1) Information concerning the number of cases accepted, denied, and terminated, with compliance or noncompliance; and

(2) A cost analysis of the Program.

Sec. 16. Rules.

The Mayor, pursuant to title I of the District of Columbia Administrative Procedure Act may issue rules to implement the provisions of this act.

Sec. 17. Appropriations.

This act shall be subject to the availability of appropriations.

Sec. 18. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

ENROLLED ORIGINAL

Sec. 19. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia