

45:11-24.10

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 82

NJSA: 45:11-24.10 (Establishes Alternatives to Discipline Program for impaired nurses)

BILL NO: S1445 (Substituted for A3534)

SPONSOR(S): Vitale and others

DATE INTRODUCED: March 29, 2004

COMMITTEE: **ASSEMBLY:** Health and Human Services
SENATE: Health, Human Services and Senior Citizens

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 14, 2005

SENATE: October 25, 2004

DATE OF APPROVAL: May 3, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)

S1445

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3534

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

IS 5/17/07

P.L. 2005, CHAPTER 82, *approved May 3, 2005*
Senate, No. 1445 (*First Reprint*)

1 **AN ACT** establishing an Alternative to Discipline Program for nurses
2 and supplementing chapter 11 of Title 45 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. a. The New Jersey Board of Nursing shall establish an
8 Alternative to Discipline Program for board licensees who are
9 suffering from a chemical dependency or other impairment.

10 The program shall permit these licensees to disclose their
11 dependency or impairment status to an intervention program
12 designated by the board, which shall provide confidential oversight of
13 the licensee during the period that the licensee seeks treatment for, and
14 follows a plan for recovery from, the dependency or impairment.

15 b. The board shall designate ¹[an] at least one¹ intervention
16 program to provide services under this act and shall delineate, in a
17 formal agreement, the responsibilities of the intervention program and
18 its relationship to the board.

19 c. The board shall establish a five-member Alternative to Discipline
20 Committee to review matters involving licensees suffering from
21 chemical dependencies or other impairments.

22 (1) The committee shall be comprised of ¹[one registered
23 professional nurse] two members of the board who are¹ appointed by
24 the president of the board¹, at least one of whom is a registered
25 professional nurse¹; two registered professional nurses with expertise
26 in addiction recommended by the New Jersey State Nurses
27 Association¹ [; one individual who represents the] who represent a
28 designated¹ intervention program; and one individual designated by the
29 Commissioner of Health and Senior Services.

30 (2) The committee shall meet on a regular basis. The executive
31 director of the board and the director of the designated intervention
32 program shall serve as staff to the committee and shall be available to
33 assist the committee at its meetings.

34 (3) The committee shall perform the following duties, as well as
35 such others as the board may require:

36 (a) accept from licensees, and from other members of the public,
37 reports, which include the individual's identity, concerning licensees
38 who may be suffering from chemical dependencies or other

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted September 27, 2004.

- 1 impairments;
- 2 (b) accept referrals, which include the individual's identity, from
3 the board;
- 4 (c) accept coded summary reports from the designated intervention
5 program, without any information from which the licensee's identity
6 can be discerned;
- 7 (d) promptly review each referral to determine if participation in
8 the program is appropriate¹, giving due consideration to factors for
9 participation, as specified by regulation of the board¹ ;
- 10 (e) accept confidential reports from the intervention program
11 regarding participating licensees and ensure that the identity of the
12 licensee is maintained in a limited-access file of the committee with
13 disclosure provided only to those persons whom the committee
14 determines have a need to know the licensee's identity; ¹[and]¹
- 15 (f) ¹require the program to conduct such supplemental inquiry
16 concerning a licensee as may be directed by the committee, and
17 authorize the program to request, through the committee, that further
18 investigation be conducted by committee staff, investigative personnel
19 or the Attorney General, as appropriate;
- 20 (g) require the program to immediately disclose to the committee
21 the identity of a participating licensee in the event of noncompliance
22 by the licensee with the conditions for participation or any other
23 change in circumstances that may render the licensee inappropriate for
24 participation in the program, as specified by regulation of the board;
25 and
- 26 (h)¹ transmit such reports as required by the board.
- 27 d. ¹The executive director of the board shall advise the committee
28 of any information concerning a concurrent investigation or consumer
29 complaints, as may be necessary to enable the committee to assess
30 whether participation of a licensee in the program is appropriate.
- 31 e. Upon receipt of disclosure of the identity of a participating
32 licensee pursuant to subparagraph (g) of paragraph (3) of subsection
33 c. of this section, the committee shall notify the board of the identity
34 of the licensee.
- 35 f.¹ Any information concerning the conduct of a licensee provided
36 to the board pursuant to this act ¹[or any other provision of law]¹, is
37 confidential and shall not be considered a public ¹or government¹
38 record under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404
39 (C.47:1A-5 et al.), pending final disposition of the inquiry or
40 investigation by the board, except for information required to be
41 shared with the Division of Insurance Fraud Prevention in the
42 Department of Banking and Insurance to comply with the provisions
43 of section 9 of P.L.1983, c.320 (C.17:33A-9) or with any other law
44 enforcement agency.
- 45 If the result of the inquiry or investigation is a finding of no basis
46 for disciplinary action by the board, the information shall remain
47 confidential and shall not be considered a public ¹or government¹

1 record under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404
2 (C.47:1A-5 et al.), except that the board may release the information
3 to a government agency, for good cause shown, upon an order of the
4 Superior Court after notice to the licensee who is the subject of the
5 information and an opportunity to be heard. The application for the
6 court order shall be placed under seal.

7 ¹[e.] g.¹ A licensee who files a report with the committee pursuant
8 to subparagraph (a) of paragraph (3) of subsection c. of this section,
9 shall be deemed to have discharged his duty to report ¹an impairment¹
10 to the board ¹or division¹ pursuant to ¹[N.J.A.C.13:37-5.8 and 13:37-
11 5.9] regulation or law¹.

12 ¹[f.] h.¹ As used in this section:

13 "Chemical dependency" means a condition involving the continued
14 misuse of chemical substances.

15 "Chemical substances" is to be construed to include alcohol, drugs
16 or medications, including those taken pursuant to a valid prescription
17 for legitimate medical purposes and in accordance with the prescriber's
18 direction, as well as those used illegally.

19 "Impairment" means an inability to function at an acceptable level
20 of competency, or an incapacity to continue to practice with the
21 requisite skill, safety and judgment, as a result of alcohol or chemical
22 dependency, a psychiatric or emotional disorder, senility or a disabling
23 physical disorder.

24 "Licensee" means a registered professional nurse, licensed practical
25 nurse or other professional subject to regulation by the board.

26

27 2. Five years following the effective date of this act, the board shall
28 determine, after study and consultation, whether the program
29 established pursuant to this act should be continued, altered, expanded
30 or discontinued. If the board concludes that the program should be
31 terminated, those licensees currently participating shall be permitted
32 to continue with the confidentiality protections provided in this act.
33

34 3. ¹a.¹The board may, by regulation, revise the fees charged
35 pursuant to N.J.A.C.13:37-5.5 or establish a surcharge to these fees
36 ¹[to carry out the purposes of this act] for costs related to the
37 administration of the Alternative to Discipline Program and the
38 committee established pursuant to this act.

39 b. Nothing in this act shall be construed to require the board to
40 fund the testing, specimen monitoring or treatment of a licensee who
41 participates in the Alternative to Discipline Program pursuant to this
42 act¹.

43

44 4. The board shall adopt rules and regulations, pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), to carry out the purposes of this act.

1 5. This act shall take effect on the 90th day after enactment, but
2 the New Jersey Board of Nursing may take such anticipatory
3 administrative action in advance as shall be necessary for the
4 implementation of the act.

5

6

7

8

9 Establishes Alternative to Discipline Program for impaired nurses
10 through NJ Board of Nursing.

SENATE, No. 1445

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MARCH 29, 2004

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator JOHN A. GIRGENTI

District 35 (Bergen and Passaic)

Co-Sponsored by:

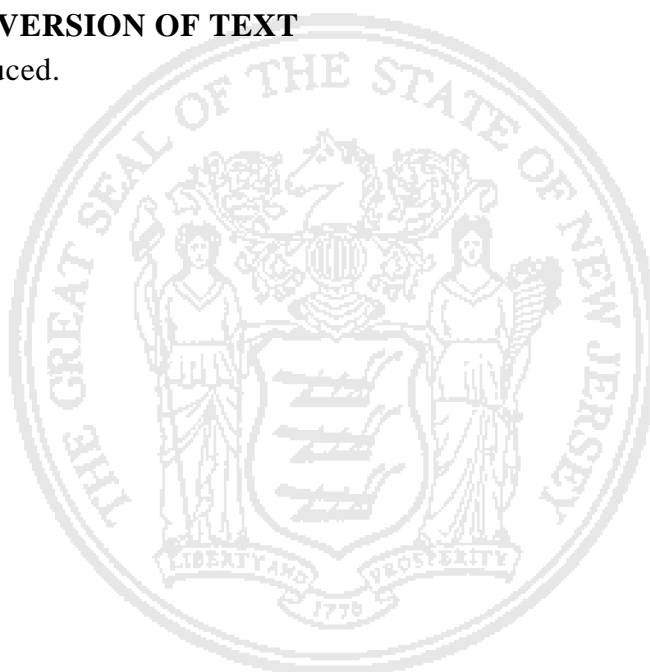
Senator Baer

SYNOPSIS

Establishes Alternative to Discipline Program for impaired nurses through NJ Board of Nursing.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/21/2004)

1 AN ACT establishing an Alternative to Discipline Program for nurses
2 and supplementing chapter 11 of Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. The New Jersey Board of Nursing shall establish an
8 Alternative to Discipline Program for board licensees who are
9 suffering from a chemical dependency or other impairment.

10 The program shall permit these licensees to disclose their
11 dependency or impairment status to an intervention program
12 designated by the board, which shall provide confidential oversight of
13 the licensee during the period that the licensee seeks treatment for, and
14 follows a plan for recovery from, the dependency or impairment.

15 b. The board shall designate an intervention program to provide
16 services under this act and shall delineate, in a formal agreement, the
17 responsibilities of the intervention program and its relationship to the
18 board.

19 c. The board shall establish a five-member Alternative to Discipline
20 Committee to review matters involving licensees suffering from
21 chemical dependencies or other impairments.

22 (1) The committee shall be comprised of one registered
23 professional nurse appointed by the president of the board; two
24 registered professional nurses with expertise in addiction
25 recommended by the New Jersey State Nurses Association; one
26 individual who represents the intervention program; and one individual
27 designated by the Commissioner of Health and Senior Services.

28 (2) The committee shall meet on a regular basis. The executive
29 director of the board and the director of the designated intervention
30 program shall serve as staff to the committee and shall be available to
31 assist the committee at its meetings.

32 (3) The committee shall perform the following duties, as well as
33 such others as the board may require:

34 (a) accept from licensees, and from other members of the public,
35 reports, which include the individual's identity, concerning licensees
36 who may be suffering from chemical dependencies or other
37 impairments;

38 (b) accept referrals, which include the individual's identity, from
39 the board;

40 (c) accept coded summary reports from the designated intervention
41 program, without any information from which the licensee's identity
42 can be discerned;

43 (d) promptly review each referral to determine if participation in
44 the program is appropriate;

45 (e) accept confidential reports from the intervention program
46 regarding participating licensees and ensure that the identity of the

1 licensee is maintained in a limited-access file of the committee with
2 disclosure provided only to those persons whom the committee
3 determines have a need to know the licensee's identity; and

4 (f) transmit such reports as required by the board.

5 d. Any information concerning the conduct of a licensee provided
6 to the board pursuant to this act or any other provision of law, is
7 confidential and shall not be considered a public record under
8 P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5
9 et al.), pending final disposition of the inquiry or investigation by the
10 board, except for information required to be shared with the Division
11 of Insurance Fraud Prevention in the Department of Banking and
12 Insurance to comply with the provisions of section 9 of P.L.1983,
13 c.320 (C.17:33A-9) or with any other law enforcement agency.

14 If the result of the inquiry or investigation is a finding of no basis
15 for disciplinary action by the board, the information shall remain
16 confidential and shall not be considered a public record under
17 P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5
18 et al.), except that the board may release the information to a
19 government agency, for good cause shown, upon an order of the
20 Superior Court after notice to the licensee who is the subject of the
21 information and an opportunity to be heard. The application for the
22 court order shall be placed under seal.

23 e. A licensee who files a report with the committee pursuant to
24 subparagraph (a) of paragraph (3) of subsection c. of this section, shall
25 be deemed to have discharged his duty to report to the board pursuant
26 to N.J.A.C.13:37-5.8 and 13:37-5.9.

27 f. As used in this section:

28 "Chemical dependency" means a condition involving the continued
29 misuse of chemical substances.

30 "Chemical substances" is to be construed to include alcohol, drugs
31 or medications, including those taken pursuant to a valid prescription
32 for legitimate medical purposes and in accordance with the prescriber's
33 direction, as well as those used illegally.

34 "Impairment" means an inability to function at an acceptable level
35 of competency, or an incapacity to continue to practice with the
36 requisite skill, safety and judgment, as a result of alcohol or chemical
37 dependency, a psychiatric or emotional disorder, senility or a disabling
38 physical disorder.

39 "Licensee" means a registered professional nurse, licensed practical
40 nurse or other professional subject to regulation by the board.

41

42 2. Five years following the effective date of this act, the board shall
43 determine, after study and consultation, whether the program
44 established pursuant to this act should be continued, altered, expanded
45 or discontinued. If the board concludes that the program should be
46 terminated, those licensees currently participating shall be permitted
47 to continue with the confidentiality protections provided in this act.

1 The Alternative to Discipline Committee shall perform the
2 following duties, as well as such others as the board may require:

3 -- accept from licensees, and from other members of the public,
4 reports, with the individual's identity, concerning licensees who may
5 be suffering from chemical dependencies or other impairments (a
6 licensee who files a report with the committee under this provision
7 shall be deemed to have discharged his duty to report to the board
8 pursuant to N.J.A.C.13:37-5.8 and 13:37-5.9, concerning reporting of
9 unlawful conduct and licensee self reporting);

10 -- accept referrals, with the individual's identity, from the board;

11 -- accept coded summary reports from the designated intervention
12 program, without any information from which the licensee's identity
13 can be discerned;

14 -- promptly review each referral to determine if participation in the
15 program is appropriate;

16 -- accept confidential reports from the intervention program
17 regarding participating licensees and ensure that the identity of the
18 licensee is maintained in a limited access file of the committee with
19 disclosure provided only to those persons whom the committee
20 determines have a need to know the licensee's identity; and

21 -- transmit such reports as required by the board.

22 The bill provides that any information concerning the conduct of a
23 licensee provided to the board pursuant to this bill or any other
24 provision of law, is confidential and shall not be considered a public
25 record under N.J.S.A.47:1A-1 et seq. and N.J.S.A.47:1A-5 et al.,
26 pending final disposition of the inquiry or investigation by the board,
27 except for information required to be shared with the Division of
28 Insurance Fraud Prevention in the Department of Banking and
29 Insurance to comply with the provisions of N.J.S.A.17:33A-9 or with
30 any other law enforcement agency. If the result of the inquiry or
31 investigation is a finding of no basis for disciplinary action by the
32 board, the information shall remain confidential and shall not be
33 considered a public record, except that the board may release the
34 information to a government agency, for good cause shown, upon an
35 order of the Superior Court after notice to the licensee who is the
36 subject of the information and an opportunity to be heard.

37 The bill provides that five years following the effective date of the
38 bill, the board shall determine, after study and consultation, whether
39 the program established pursuant to this bill should be continued,
40 altered, expanded or discontinued. If the board concludes that the
41 program should be terminated, those licensees currently participating
42 shall be permitted to continue with the confidentiality protections
43 provided in the bill.

44 Finally, the bill provides that the board may, by regulation, revise
45 the fees charged pursuant to N.J.A.C.13:37-5.5 or establish a
46 surcharge to these fees to carry out the purposes of the bill.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1445

STATE OF NEW JERSEY

DATED: FEBRUARY 28, 2005

The Assembly Health and Human Services Committee reports favorably Senate Bill No. 1445 (1R).

This bill authorizes the New Jersey Board of Nursing to establish an Alternative to Discipline Program for board licensees (registered professional nurses, licensed practical nurses and other professionals subject to regulation by the board) who are suffering from a chemical dependency or other impairment.

Specifically, the bill provides as follows:

- C The Alternative to Discipline Program is to permit these licensees to disclose their dependency or impairment status to an intervention program designated by the board, which is to provide confidential oversight of the licensee during the period that the licensee seeks treatment for and follows a plan for recovery from the dependency or impairment.
- C "Impairment" is defined to mean: an inability to function at an acceptable level of competency, or an incapacity to continue to practice with the requisite skill, safety and judgment, as a result of alcohol or chemical dependency, a psychiatric or emotional disorder, senility or a disabling physical disorder.
- C The board is to designate at least one intervention program to provide services under the program, and to delineate, in a formal agreement, the responsibilities of the intervention program and its relationship to the board.
- C The board is to establish a five-member Alternative to Discipline Committee to review matters involving licensees suffering from chemical dependencies or other impairments.

-- The committee will be comprised of: two members of the board who are appointed by the president of the board, at least one of whom is a registered professional nurse (RN); two RNs with expertise in addiction recommended by the New Jersey State Nurses Association who represent a designated intervention program; and one individual designated by the Commissioner of Health and Senior Services.

-- The committee will meet on a regular basis, and the executive director of the board and the director of the designated intervention program will serve as staff to the committee.

- C The Alternative to Discipline Committee is to perform the following duties, as well as such others as the board may require:
- accept from licensees, and from other members of the public, reports, with the individual's identity, concerning licensees who may be suffering from chemical dependencies or other impairments (a licensee who files a report with the committee under this provision will be deemed to have discharged his duty to report an impairment to the board or division pursuant regulation or law);
 - accept referrals, with the individual's identity, from the board;
 - accept coded summary reports from the designated intervention program, without any information from which the licensee's identity can be discerned;
 - promptly review each referral to determine if participation in the program is appropriate, giving due consideration to factors for participation, as specified by the board;
 - accept confidential reports from the intervention program regarding participating licensees and ensure that the identity of the licensee is maintained in a limited access file of the committee with disclosure provided only to those persons whom the committee determines have a need to know the licensee's identity;
 - require the program to conduct such supplemental inquiry concerning a licensee as may be directed by the committee, and authorize the program to request, through the committee, that further investigation be conducted by committee staff, investigative personnel or the Attorney General, as appropriate;
 - require the program to immediately disclose to the committee the identity of a participating licensee in the event of noncompliance by the licensee with the conditions for participation or any other change in circumstances that may render the licensee inappropriate for participation in the program, as specified by regulation of the board; and upon receipt of such disclosure by the committee, notify the board of the identity of the licensee; and
 - transmit such reports as required by the board.
- C The executive director of the board is to advise the committee of any information concerning a concurrent investigation or consumer complaints, as may be necessary to enable the committee to assess whether participation of a licensee in the program is appropriate.
- C Any information concerning the conduct of a licensee that is provided to the board pursuant to the bill is confidential and is not to be considered a public or government record under N.J.S.A.47:1A-1 et seq. and N.J.S.A.47:1A-5 et al., pending final disposition of the inquiry or investigation by the board, except for information required to be shared with the Division of Insurance Fraud Prevention in the Department of Banking and Insurance to comply with the provisions of N.J.S.A.17:33A-9 or with any other law enforcement agency. If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information will remain confidential and not be

considered a public or government record, except that the board may release the information to a government agency, for good cause shown, upon an order of the Superior Court after notice to the licensee who is the subject of the information and an opportunity to be heard.

- C Five years following the effective date of the bill, the board is to determine, after study and consultation, whether the program established pursuant to the bill should be continued, altered, expanded or discontinued. If the board concludes that the program should be terminated, those licensees currently participating will be permitted to continue with the confidentiality protections provided in the bill.
- C The board may, by regulation, revise the licensing fees charged pursuant to N.J.A.C.13:37-5.5 or establish a surcharge to these fees for costs related to the administration of the Alternative to Discipline Program and the committee established in the bill. The provisions of the bill are not to be construed to require the board to fund the testing, specimen monitoring or treatment of a licensee who participates in the program.

This bill is identical to Assembly Bill No. 3534 (Weinberg/Greenstein), which the committee also reported on this date.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 1445

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 27, 2004

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 1445.

As amended by committee, this bill authorizes the New Jersey Board of Nursing to establish an Alternative to Discipline Program for board licensees (registered professional nurses, licensed practical nurses and other professionals subject to regulation by the board) who are suffering from a chemical dependency or other impairment.

The program will permit these licensees to disclose their dependency or impairment status to an intervention program designated by the board, which shall provide confidential oversight of the licensee during the period the licensee seeks treatment for and follows a plan for recovery from the dependency or impairment. The bill defines "impairment" to mean: an inability to function at an acceptable level of competency, or an incapacity to continue to practice with the requisite skill, safety and judgment, as a result of alcohol or chemical dependency, a psychiatric or emotional disorder, senility or a disabling physical disorder.

The bill directs the board to designate at least one intervention program to provide services under the program, and to delineate, in a formal agreement, the responsibilities of the intervention program and its relationship to the board. The bill also provides that the board shall establish a five-member Alternative to Discipline Committee to review matters involving licensees suffering from chemical dependencies or other impairments. The committee shall be comprised of two members of the board who are appointed by the president of the board, at least one of whom is a registered professional nurse (RN); two RNs with expertise in addiction recommended by the New Jersey State Nurses Association who represent a designated intervention program; and one individual designated by the Commissioner of Health and Senior Services. The committee will meet on a regular basis, and the executive director of the board and the director of the designated intervention program will serve as staff to the committee.

The Alternative to Discipline Committee shall perform the following duties, as well as such others as the board may require:

- accept from licensees, and from other members of the public, reports, with the individual's identity, concerning licensees who may be suffering from chemical dependencies or other impairments (a licensee who files a report with the committee under this provision shall be deemed to have discharged his duty to report an impairment to the board or division pursuant regulation or law);
- accept referrals, with the individual's identity, from the board;
- accept coded summary reports from the designated intervention program, without any information from which the licensee's identity can be discerned;
- promptly review each referral to determine if participation in the program is appropriate, giving due consideration to factors for participation, as specified by the board;
- accept confidential reports from the intervention program regarding participating licensees and ensure that the identity of the licensee is maintained in a limited access file of the committee with disclosure provided only to those persons whom the committee determines have a need to know the licensee's identity;
- require the program to conduct such supplemental inquiry concerning a licensee as may be directed by the committee, and authorize the program to request, through the committee, that further investigation be conducted by committee staff, investigative personnel or the Attorney General, as appropriate;
- require the program to immediately disclose to the committee the identity of a participating licensee in the event of noncompliance by the licensee with the conditions for participation or any other change in circumstances that may render the licensee inappropriate for participation in the program, as specified by regulation of the board. Upon receipt of such disclosure, the committee is required to notify the board of the identity of the licensee; and
- transmit such reports as required by the board.

The bill provides that the executive director of the board shall advise the committee of any information concerning a concurrent investigation or consumer complaints, as may be necessary to enable the committee to assess whether participation of a licensee in the program is appropriate.

The bill also provides that any information concerning the conduct of a licensee provided to the board pursuant to this bill, is confidential and shall not be considered a public or government record under N.J.S.A.47:1A-1 et seq. and N.J.S.A.47:1A-5 et al., pending final disposition of the inquiry or investigation by the board, except for information required to be shared with the Division of Insurance Fraud Prevention in the Department of Banking and Insurance to comply with the provisions of N.J.S.A.17:33A-9 or with any other law enforcement agency. If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information

shall remain confidential and shall not be considered a public or government record, except that the board may release the information to a government agency, for good cause shown, upon an order of the Superior Court after notice to the licensee who is the subject of the information and an opportunity to be heard.

The bill provides that five years following the effective date of the bill, the board shall determine, after study and consultation, whether the program established pursuant to this bill should be continued, altered, expanded or discontinued. If the board concludes that the program should be terminated, those licensees currently participating shall be permitted to continue with the confidentiality protections provided in the bill.

Finally, the bill provides that the board may, by regulation, revise the licensing fees charged pursuant to N.J.A.C.13:37-5.5 or establish a surcharge to these fees for costs related to the administration of the Alternative to Discipline Program and the committee established in the bill. The bill also provides that its provisions shall not be construed to require the board to fund the testing, specimen monitoring or treatment of a licensee who participates in the program.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- provide that the board designate at least one, rather than only one, intervention program;
- revise the composition of the committee to include: two members of the Board of Nursing, as least one of whom is a RN (rather than two RNs appointed by the board, as the bill originally provided); and two RNs (rather than one, as the bill originally provided) who represent a designated intervention program;
- clarify that the committee, in making a determination if participation by a licensee is appropriate, shall give due consideration to factors for participation in the program, as specified by the board;
- require the intervention program to conduct a supplemental inquiry concerning a licensee as directed by the committee;
- require the intervention program to immediately disclose to the committee the identity of a participating licensee in the event of noncompliance with the requirements for participation in the program or any other change in circumstances that may render the licensee inappropriate for participation in the program, and require the committee to so notify the board of the identity of the licensee;
- require the executive director of the board to advise the committee of any information concerning a concurrent investigation or consumer complaint in order to enable the committee to assess whether participation in the program by a licensee is appropriate;
- clarify that any information concerning the conduct of a licensee provided to the board pursuant to this bill is confidential pending final disposition by the board;
- delete references to specific Administrative Code cites and

provide, instead, that filing a report with the committee pursuant to the bill shall meet any statutory or regulatory requirement to report an impairment to the board or Division of Consumer Affairs; and

- specify that the board may establish a surcharge on licensing fees for costs related to the administration of the program and committee established in this bill, and provide that nothing in this bill shall be construed to require the board to fund the testing, specimen monitoring or treatment of a licensee who participates in the program.

Other amendments to the bill are technical.

ASSEMBLY, No. 3534

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED NOVEMBER 22, 2004

Sponsored by:

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Establishes Alternative to Discipline Program for impaired nurses through NJ Board of Nursing.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing an Alternative to Discipline Program for nurses
2 and supplementing chapter 11 of Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. The New Jersey Board of Nursing shall establish an
8 Alternative to Discipline Program for board licensees who are
9 suffering from a chemical dependency or other impairment.

10 The program shall permit these licensees to disclose their
11 dependency or impairment status to an intervention program
12 designated by the board, which shall provide confidential oversight of
13 the licensee during the period that the licensee seeks treatment for, and
14 follows a plan for recovery from, the dependency or impairment.

15 b. The board shall designate at least one intervention program to
16 provide services under this act and shall delineate, in a formal
17 agreement, the responsibilities of the intervention program and its
18 relationship to the board.

19 c. The board shall establish a five-member Alternative to Discipline
20 Committee to review matters involving licensees suffering from
21 chemical dependencies or other impairments.

22 (1) The committee shall be comprised of two members of the board
23 who are appointed by the president of the board, at least one of whom
24 is a registered professional nurse; two registered professional nurses
25 with expertise in addiction recommended by the New Jersey State
26 Nurses Association who represent a designated intervention program;
27 and one individual designated by the Commissioner of Health and
28 Senior Services.

29 (2) The committee shall meet on a regular basis. The executive
30 director of the board and the director of the designated intervention
31 program shall serve as staff to the committee and shall be available to
32 assist the committee at its meetings.

33 (3) The committee shall perform the following duties, as well as
34 such others as the board may require:

35 (a) accept from licensees, and from other members of the public,
36 reports, which include the individual's identity, concerning licensees
37 who may be suffering from chemical dependencies or other
38 impairments;

39 (b) accept referrals, which include the individual's identity, from
40 the board;

41 (c) accept coded summary reports from the designated intervention
42 program, without any information from which the licensee's identity
43 can be discerned;

44 (d) promptly review each referral to determine if participation in
45 the program is appropriate, giving due consideration to factors for
46 participation, as specified by regulation of the board;

1 (e) accept confidential reports from the intervention program
2 regarding participating licensees and ensure that the identity of the
3 licensee is maintained in a limited-access file of the committee with
4 disclosure provided only to those persons whom the committee
5 determines have a need to know the licensee's identity;

6 (f) require the program to conduct such supplemental inquiry
7 concerning a licensee as may be directed by the committee, and
8 authorize the program to request, through the committee, that further
9 investigation be conducted by committee staff, investigative personnel
10 or the Attorney General, as appropriate;

11 (g) require the program to immediately disclose to the committee
12 the identity of a participating licensee in the event of noncompliance
13 by the licensee with the conditions for participation or any other
14 change in circumstances that may render the licensee inappropriate for
15 participation in the program, as specified by regulation of the board;
16 and

17 (h) transmit such reports as required by the board.

18 d. The executive director of the board shall advise the committee
19 of any information concerning a concurrent investigation or consumer
20 complaints, as may be necessary to enable the committee to assess
21 whether participation of a licensee in the program is appropriate.

22 e. Upon receipt of disclosure of the identity of a participating
23 licensee pursuant to subparagraph (g) of paragraph (3) of subsection
24 c. of this section, the committee shall notify the board of the identity
25 of the licensee.

26 f. Any information concerning the conduct of a licensee provided
27 to the board pursuant to this act, is confidential and shall not be
28 considered a public or government record under P.L.1963, c.73
29 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), pending
30 final disposition of the inquiry or investigation by the board, except for
31 information required to be shared with the Division of Insurance Fraud
32 Prevention in the Department of Banking and Insurance to comply
33 with the provisions of section 9 of P.L.1983, c.320 (C.17:33A-9) or
34 with any other law enforcement agency.

35 If the result of the inquiry or investigation is a finding of no basis
36 for disciplinary action by the board, the information shall remain
37 confidential and shall not be considered a public or government record
38 under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404
39 (C.47:1A-5 et al.), except that the board may release the information
40 to a government agency, for good cause shown, upon an order of the
41 Superior Court after notice to the licensee who is the subject of the
42 information and an opportunity to be heard. The application for the
43 court order shall be placed under seal.

44 g. A licensee who files a report with the committee pursuant to
45 subparagraph (a) of paragraph (3) of subsection c. of this section, shall
46 be deemed to have discharged his duty to report an impairment to the

1 board or division pursuant to regulation or law.

2 h. As used in this section:

3 "Chemical dependency" means a condition involving the continued
4 misuse of chemical substances.

5 "Chemical substances" is to be construed to include alcohol, drugs
6 or medications, including those taken pursuant to a valid prescription
7 for legitimate medical purposes and in accordance with the prescriber's
8 direction, as well as those used illegally.

9 "Impairment" means an inability to function at an acceptable level
10 of competency, or an incapacity to continue to practice with the
11 requisite skill, safety and judgment, as a result of alcohol or chemical
12 dependency, a psychiatric or emotional disorder, senility or a disabling
13 physical disorder.

14 "Licensee" means a registered professional nurse, licensed practical
15 nurse or other professional subject to regulation by the board.

16

17 2. Five years following the effective date of this act, the board shall
18 determine, after study and consultation, whether the program
19 established pursuant to this act should be continued, altered, expanded
20 or discontinued. If the board concludes that the program should be
21 terminated, those licensees currently participating shall be permitted
22 to continue with the confidentiality protections provided in this act.

23

24 3. a. The board may, by regulation, revise the fees charged
25 pursuant to N.J.A.C.13:37-5.5 or establish a surcharge to these fees
26 for costs related to the administration of the Alternative to Discipline
27 Program and the committee established pursuant to this act.

28 b. Nothing in this act shall be construed to require the board to
29 fund the testing, specimen monitoring or treatment of a licensee who
30 participates in the Alternative to Discipline Program pursuant to this
31 act.

32

33 4. The board shall adopt rules and regulations, pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to carry out the purposes of this act.

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37 5. This act shall take effect on the 90th day after enactment, but
38 the New Jersey Board of Nursing may take such anticipatory
39 administrative action in advance as shall be necessary for the
40 implementation of the act.

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42

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STATEMENT

44

45 This bill authorizes the New Jersey Board of Nursing to establish
46 an Alternative to Discipline Program for board licensees (registered

1 professional nurses, licensed practical nurses and other professionals
2 subject to regulation by the board) who are suffering from a chemical
3 dependency or other impairment.

4 The program will permit these licensees to disclose their
5 dependency or impairment status to an intervention program
6 designated by the board, which shall provide confidential oversight of
7 the licensee during the period the licensee seeks treatment for and
8 follows a plan for recovery from the dependency or impairment. The
9 bill defines "impairment" to mean: an inability to function at an
10 acceptable level of competency, or an incapacity to continue to
11 practice with the requisite skill, safety and judgment, as a result of
12 alcohol or chemical dependency, a psychiatric or emotional disorder,
13 senility or a disabling physical disorder.

14 The bill directs the board to designate at least one intervention
15 program to provide services under the program, and to delineate, in a
16 formal agreement, the responsibilities of the intervention program and
17 its relationship to the board. The bill also provides that the board shall
18 establish a five-member Alternative to Discipline Committee to review
19 matters involving licensees suffering from chemical dependencies or
20 other impairments. The committee shall be comprised of two members
21 of the board who are appointed by the president of the board, at least
22 one of whom is a registered professional nurse (RN); two RNs with
23 expertise in addiction recommended by the New Jersey State Nurses
24 Association who represent a designated intervention program; and one
25 individual designated by the Commissioner of Health and Senior
26 Services. The committee will meet on a regular basis, and the
27 executive director of the board and the director of the designated
28 intervention program will serve as staff to the committee.

29 The Alternative to Discipline Committee shall perform the
30 following duties, as well as such others as the board may require:

31 -- accept from licensees, and from other members of the public,
32 reports, with the individual's identity, concerning licensees who may
33 be suffering from chemical dependencies or other impairments (a
34 licensee who files a report with the committee under this provision
35 shall be deemed to have discharged his duty to report an impairment
36 to the board or division pursuant regulation or law);

37 -- accept referrals, with the individual's identity, from the board;

38 -- accept coded summary reports from the designated intervention
39 program, without any information from which the licensee's identity
40 can be discerned;

41 -- promptly review each referral to determine if participation in the
42 program is appropriate, giving due consideration to factors for
43 participation, as specified by the board;

44 -- accept confidential reports from the intervention program
45 regarding participating licensees and ensure that the identity of the
46 licensee is maintained in a limited access file of the committee with

1 disclosure provided only to those persons whom the committee
2 determines have a need to know the licensee's identity;

3 -- require the program to conduct such supplemental inquiry
4 concerning a licensee as may be directed by the committee, and
5 authorize the program to request, through the committee, that further
6 investigation be conducted by committee staff, investigative personnel
7 or the Attorney General, as appropriate;

8 -- require the program to immediately disclose to the committee
9 the identity of a participating licensee in the event of noncompliance
10 by the licensee with the conditions for participation or any other
11 change in circumstances that may render the licensee inappropriate for
12 participation in the program, as specified by regulation of the board.
13 Upon receipt of such disclosure, the committee is required to notify
14 the board of the identity of the licensee; and

15 -- transmit such reports as required by the board.

16 The bill provides that the executive director of the board shall
17 advise the committee of any information concerning a concurrent
18 investigation or consumer complaints, as may be necessary to enable
19 the committee to assess whether participation of a licensee in the
20 program is appropriate.

21 The bill also provides that any information concerning the conduct
22 of a licensee provided to the board pursuant to this bill, is confidential
23 and shall not be considered a public or government record under
24 N.J.S.A.47:1A-1 et seq. and N.J.S.A.47:1A-5 et al., pending final
25 disposition of the inquiry or investigation by the board, except for
26 information required to be shared with the Division of Insurance Fraud
27 Prevention in the Department of Banking and Insurance to comply
28 with the provisions of N.J.S.A.17:33A-9 or with any other law
29 enforcement agency. If the result of the inquiry or investigation is a
30 finding of no basis for disciplinary action by the board, the information
31 shall remain confidential and shall not be considered a public or
32 government record, except that the board may release the information
33 to a government agency, for good cause shown, upon an order of the
34 Superior Court after notice to the licensee who is the subject of the
35 information and an opportunity to be heard.

36 The bill provides that five years following the effective date of the
37 bill, the board shall determine, after study and consultation, whether
38 the program established pursuant to this bill should be continued,
39 altered, expanded or discontinued. If the board concludes that the
40 program should be terminated, those licensees currently participating
41 shall be permitted to continue with the confidentiality protections
42 provided in the bill.

43 Finally, the bill provides that the board may, by regulation, revise
44 the licensing fees charged pursuant to N.J.A.C.13:37-5.5 or establish
45 a surcharge to these fees for costs related to the administration of the
46 Alternative to Discipline Program and the committee established in the

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1 bill. The bill also provides that its provisions shall not be construed to
2 require the board to fund the testing, specimen monitoring or
3 treatment of a licensee who participates in the program.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3534

STATE OF NEW JERSEY

DATED: FEBRUARY 28, 2005

The Assembly Health and Human Services Committee reports favorably Assembly Bill No. 3534.

This bill authorizes the New Jersey Board of Nursing to establish an Alternative to Discipline Program for board licensees (registered professional nurses, licensed practical nurses and other professionals subject to regulation by the board) who are suffering from a chemical dependency or other impairment.

Specifically, the bill provides as follows:

- C The Alternative to Discipline Program is to permit these licensees to disclose their dependency or impairment status to an intervention program designated by the board, which is to provide confidential oversight of the licensee during the period that the licensee seeks treatment for and follows a plan for recovery from the dependency or impairment.
- C "Impairment" is defined to mean: an inability to function at an acceptable level of competency, or an incapacity to continue to practice with the requisite skill, safety and judgment, as a result of alcohol or chemical dependency, a psychiatric or emotional disorder, senility or a disabling physical disorder.
- C The board is to designate at least one intervention program to provide services under the program, and to delineate, in a formal agreement, the responsibilities of the intervention program and its relationship to the board.
- C The board is to establish a five-member Alternative to Discipline Committee to review matters involving licensees suffering from chemical dependencies or other impairments.

-- The committee will be comprised of: two members of the board who are appointed by the president of the board, at least one of whom is a registered professional nurse (RN); two RNs with expertise in addiction recommended by the New Jersey State Nurses Association who represent a designated intervention program; and one individual designated by the Commissioner of Health and Senior Services.

-- The committee will meet on a regular basis, and the executive director of the board and the director of the designated intervention program will serve as staff to the committee.

- C The Alternative to Discipline Committee is to perform the following duties, as well as such others as the board may require:

-- accept from licensees, and from other members of the public, reports, with the individual's identity, concerning licensees who may be suffering from chemical dependencies or other impairments (a licensee who files a report with the committee under this provision will be deemed to have discharged his duty to report an impairment to the board or division pursuant regulation or law);

-- accept referrals, with the individual's identity, from the board;

-- accept coded summary reports from the designated intervention program, without any information from which the licensee's identity can be discerned;

-- promptly review each referral to determine if participation in the program is appropriate, giving due consideration to factors for participation, as specified by the board;

-- accept confidential reports from the intervention program regarding participating licensees and ensure that the identity of the licensee is maintained in a limited access file of the committee with disclosure provided only to those persons whom the committee determines have a need to know the licensee's identity;

-- require the program to conduct such supplemental inquiry concerning a licensee as may be directed by the committee, and authorize the program to request, through the committee, that further investigation be conducted by committee staff, investigative personnel or the Attorney General, as appropriate;

-- require the program to immediately disclose to the committee the identity of a participating licensee in the event of noncompliance by the licensee with the conditions for participation or any other change in circumstances that may render the licensee inappropriate for participation in the program, as specified by regulation of the board; and upon receipt of such disclosure by the committee, notify the board of the identity of the licensee; and

-- transmit such reports as required by the board.

C The executive director of the board is to advise the committee of any information concerning a concurrent investigation or consumer complaints, as may be necessary to enable the committee to assess whether participation of a licensee in the program is appropriate.

C Any information concerning the conduct of a licensee that is provided to the board pursuant to the bill is confidential and is not to be considered a public or government record under N.J.S.A.47:1A-1 et seq. and N.J.S.A.47:1A-5 et al., pending final disposition of the inquiry or investigation by the board, except for information required to be shared with the Division of Insurance Fraud Prevention in the Department of Banking and Insurance to comply with the provisions of N.J.S.A.17:33A-9 or with any other law enforcement agency. If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information will remain confidential and not be considered a public or government record, except that the board may release the information to a government agency, for good

cause shown, upon an order of the Superior Court after notice to the licensee who is the subject of the information and an opportunity to be heard.

- C Five years following the effective date of the bill, the board is to determine, after study and consultation, whether the program established pursuant to the bill should be continued, altered, expanded or discontinued. If the board concludes that the program should be terminated, those licensees currently participating will be permitted to continue with the confidentiality protections provided in the bill.
- C The board may, by regulation, revise the licensing fees charged pursuant to N.J.A.C.13:37-5.5 or establish a surcharge to these fees for costs related to the administration of the Alternative to Discipline Program and the committee established in the bill. The provisions of the bill are not to be construed to require the board to fund the testing, specimen monitoring or treatment of a licensee who participates in the program.

This bill is identical to Senate Bill No. 1445 (1R) (Vitale/Girgenti), which the committee also reported on this date.