

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Authorize the State Board of Nursing To Request Mental and Physical Examinations and To Establish a Nurse Health Program

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24 MRSA §2502, sub-§4-A, as amended by PL 2007, c. 288, §1, is further amended to read:

4-A. Professional review committee. "Professional review committee" means a committee of physicians, dentists, pharmacists, nurses or a combination of members of all 34 professions formed by a professional society for the purpose of identifying and working with physicians, dentists and other licensees of the Board of Dental Examiners, physician assistants, pharmacists and pharmacy technicians and nurses who are disabled or impaired by virtue of physical or mental infirmity or by the misuse of alcohol or drugs, as long as the committee operates pursuant to protocols approved by the Board of Licensure in Medicine, the Board of Dental Examiners, the Board of Osteopathic Licensure and, the Maine Board of Pharmacy and the State Board of Nursing.

Sec. 2. 32 MRSA §2105-A, sub-§4 is enacted to read:

4. Authority to request mental and physical examinations. For the purposes of this section, by application for and acceptance of a license to practice, a nurse is considered to have given consent to a mental or physical examination when directed by the board. The board may direct a nurse to submit to an examination whenever the board determines the nurse may be suffering from a mental illness that may be interfering with the competent practice of nursing or from the use of intoxicants or drugs to an extent that they are preventing the nurse from practicing nursing competently and with safety to patients. A nurse examined pursuant to an order of the board may not prevent the testimony of the examining individual or prevent the acceptance into evidence of the report of an examining individual in a proceeding under subsection 1-A. Failure to comply with an order of the board to submit to a mental or physical examination results in the immediate suspension of the license of the nurse by order of the District Court until the nurse submits to the examination.

Sec. 3. 32 MRSA §2105-A, sub-§5 is enacted to read:

5. Nurse health program. The board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee's reporting information the board considers appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocols may not prohibit an impaired nurse from seeking alternative forms of treatment.

The board may contract with other agencies, individuals, firms or associations for the conduct and operation of a nurse health program operated by a professional review committee as that term is defined in Title 24, section 2502, subsection 4-A.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

State Board of Nursing 0380

Initiative: Allocates dedicated revenue funds for the State Board of Nursing to contract with an agency to operate a nurse health program beginning in September 2009.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$100,000	\$120,000
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$100,000	\$120,000

SUMMARY

This bill provides authority for the State Board of Nursing to require an applicant for licensure or a licensee to undergo a physical or mental health examination for purposes of determining fitness to practice nursing. The language is consistent with that found in medical and dental statutes.

The bill also provides for an alternative to a discipline program for nurses with substance abuse history by creating a nurse health program consistent with those available for other health care providers.