

Legislative History for Connecticut Act

Act Number:	07-103	
Bill Number:	7155	
Senate Pages:	3053-3055, 3098-3100	6
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Committee:	Public Health: 3175, 3177-3178, 3389-3420, 3475-3476, 3477-3478, 3725-3793	35

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S-546

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2007

VOL. 50

PART 10

3006-3343

jmk

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Senate

May 23, 2007

THE CHAIR:

Seeing no objection, the item is removed from the foot and is Passed, retaining its place.

SEN. LOONEY:

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Mr. Clerk.

THE CLERK:

Calendar Page 9, Calendar 617, File 555 and 851, Substitute for House Bill 7155, An Act Concerning Professional Assistance Programs for Health Care Professionals, as amended by House Amendment Schedule "A", Favorable Report of the Committee on Public Health, Judiciary, Government Administration and Elections, and Legislative Management.

THE CHAIR:

Senator Handley.

SEN. HANDLEY:

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Thank you, Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

The question is on passage in concurrence with the House. Will you remark, Senator?

SEN. HANDLEY:

Thank you, Mr. President. This allows an expansion of a program to make a single-assistance program for health professionals and expands the group of folks who might be eligible to participate in these programs.

And the amendment clarifies the relationship between folks who are now in assistance programs and the new program that is contemplated by this bill.

THE CHAIR:

Thank you, Senator. Will you remark further?
Senator Handley.

SEN. HANDLEY:

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If there's no objection, I would ask that it be placed on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered.

THE CLERK:

Calendar Page 14, Matters Returned from Committee, Calendar 250, File 237, Substitute for Senate Bill 1044, An Act Concerning Discrimination, Favorable Report of the Committee on Judiciary, Government Administration and Elections, Higher Education, and Education. Clerk is in possession of amendments.

THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

Thank you, Mr. President. Mr. President, I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

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THE CHAIR:

Thank you, Senator Looney. Mr. Clerk, would you please call for a vote on the Consent Calendar.

THE CLERK:

An immediate roll call vote has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

An immediate roll call vote has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Mr. President, those items placed on the first Consent Calendar begin on Calendar Page 4, Calendar 493, Substitute for House Bill 7160.

Calendar Page 6, Calendar 588, Substitute for House Bill 6646.

Calendar Page 7, Calendar 600, House Bill 6060.

Calendar Page 9, Calendar 617 Substitute for House Bill 7155.

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And Calendar Page 19, Calendar 442, Substitute
for Senate Bill 1074.

THE CHAIR:

Thank you, Mr. Clerk. The machine will be open.

THE CLERK:

The Senate is now voting by roll call on the
Consent Calendar. Will all Senators please return to
the Chamber.

The Senate is now voting by roll call on the
Consent Calendar. Will all Senators please return to
the Chamber.

THE CHAIR:

All Members have voted? The machine will be
closed. Mr. Clerk, announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.
Total number voting, 35; necessary for adoption,
18. Those voting "yea", 35; those voting "nay", 0.
Those absent or not voting, 1.

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THE CHAIR:

Thank you, Sir. Consent Calendar passes.

Senator Looney.

SEN. LOONEY:

Yes, thank you, Mr. President. Mr. President, would ask for suspension of our rules at this time for immediate transmittal to the House of Representatives of items that we have acted upon today, requiring additional action by the House.

THE CHAIR:

Seeing no objection, suspension is so ordered.

Senator Looney.

SEN. LOONEY:

Yes, thank you, Mr. President. Mr. President, that concludes the items we have marked at this time, and I would yield the floor for any Members who might have announcements or points of personal privilege and will then be calling for a recess for caucuses.

THE CHAIR:

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GEN. ASSEMBLY
HOUSE

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Any announcements or introductions?

Representative Sawyer.

REP. SAWYER: (55th)

Thank you, Mr. Speaker. As most people know, downstairs it's Manufacturing Day, and I guess I would just like to suggest that I perhaps have the sweetest manufacturer here today, and the Butter Crunch that they offer close to the Hall of the Flags at Munson Chocolates is worth a stop for. Thank you, Mr. Speaker.

SPEAKER AMANN:

Thank you, Madam. Do you care to remark further? I mean, excuse me, any other introductions? Announcements or introductions? If not, would the Clerk please call Calendar Number 468.

CLERK:

On Page 32, Calendar Number 468, Substitute for House Bill Number 7155, AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTHCARE PROFESSIONALS, Favorable Report of the Committee on Legislative Management.

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SPEAKER AMANN:

Representative Malone.

REP. MALONE: (47th)

Thank you, Mr. Speaker. I move for the acceptance of the Joint Committee's Favorable Report and passage of the Bill.

SPEAKER AMANN:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the Bill. Will you remark, Sir?

REP. MALONE: (47th)

Yes, Sir, Mr. Speaker, thank you, Sir. Before us is a Bill that is ten or eleven years in the making, certainly my recollection.

The matter is a professional Assistance Program for healthcare professionals and many in the Chamber will remember we passed this Bill last year by about a margin of 147 to nothing.

Unfortunately, it got caught at the end of the Session and fell victim to the time, and was not passed.

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It was brought back before us this year, and what the Bill does, Mr. Speaker, it establishes a single Assistance Program to serve all healthcare professionals, a single Assistance Program that is available to those people who find themselves in some kind of crisis via through a substance abuse, disease of substance abuse or mental illness, or some other problem that may beset a healthcare professional that requires attention, but certainly requires a modicum of understanding of that particular crisis.

For purpose of history, Mr. Speaker, I'll go through what the Bill does and why we're doing it. We'll amend it very briefly at the end if you'll indulge me to talk about the Bill before I call for the Amendment.

The healthcare professionals have experienced for a number of years a concern that an individual who suffered some kind of problem, in many instances the result of a disease of addiction, would not, or could not, or were fearful of seeking help for that kind of illness or trouble because of the fear that the

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healthcare professional career would be over, on indictment of our state department system, but, and it fails to protect public safety.

I think some people viewed the State of Connecticut as being a little, very difficult on an individual that comes forward and acknowledges a problem and seeks help.

This Bill allows that to happen. It mirrors itself after a bill we passed here two years ago, similarly suited for those in the legal profession, and the time has come to do this Bill.

As I indicated, the Bill passed last year overwhelmingly in the House, but unfortunately we were not able to get it passed in the other Chamber, and it came back this year, and it was an assumption that we would just run the Bill as was done last year.

I was a little surprised to learn that the Department of Public Health had looked at the Bill again, taken a second look, but I find on comparison of the bill that was done last year, and that which

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was put together and offered in addition this year,
certainly is an improvement to the Bill.

And we're very happy and grateful for their participation because it indicates that the Department of Public Health wants to participate in this process, and is an equal partner in making certain that someone who is, finds themselves impaired and in the need of help can get help for that, and does not have to worry about losing their healthcare professional career.

I will talk, Madam Speaker, about the things that will exclude someone from this Bill, but I do want to identify the healthcare professionals that are listed in the Bill.

The list is lengthy, so do allow me the opportunity to do so. Physicians and surgeons, physicians assistants, chiropractors, naturopaths, homeopathic physicians, podiatrists, athletic trainers, physical therapists, occupational therapists, alcohol and drug counselors, radiographers, radiological technologists, nurse midwives, nurses, dentists, dental hygienists,

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optometrists, opticians, respiratory care practitioners, psychologists, marital and family therapists, clinical social workers, professional counselors, veterinarians, massage therapists, dietitian, nutritionists, acupuncturists, paramedic, hearing instrument specialists, speech pathologists, audiologists, and it was brought to our attention at the late date last year by our former colleague, Representative Beamon that we should include embalmers and funeral directors, and we wisely kept that in the Bill for this year as a courtesy to our former colleague, Representative Beamon.

The program is an alternative voluntary and confidential opportunity for rehabilitation of a healthcare professional.

What it does not do, it is not tolerant of those people who have repeat issues of needing assistance. It's a one-shot deal. I think the overriding need for this Bill is that there was a fear that it was one shot and you were out.

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I don't think there's anybody in this Chamber, because certainly we've debated the Bill enough, and the issue enough, is that in our society it begs that those who have a problem can come forward and seek help and enter back into our society, and we welcome, we welcome them to do so and encourage them to do so.

Unfortunately, we didn't have the balance, and in the healthcare professional world, there was the belief that a person who came forward with a problem would be out of a job.

This Bill tempers that and takes care of it and makes certain that people have the opportunity to seek the help they need.

It does not allow for an individual who has repeat offenses. It does not allow any protection for someone who has been arrested as a result of their problems, and it certainly does not allow for someone who does not take the recommendation or the recommended course of action for dealing with the problem that they presented with.

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It is very clear that the intent, while is to make certain that a healthcare professional is not eliminated or prevented from doing their work because they presented themselves with a problem, its goal remains to ensure the safety of persons in the healthcare setting, and the patients in the healthcare setting.

The program is to be run by a professional society in the healthcare professional world. It includes mandatory periodic evaluations of the participant's ability to practice with skill and safety without posing a threat to the health and safety of any person or persons in the healthcare setting, and particularly that of the patient.

The impairments that might be presented, I do want to list, so if you'll allow me, Madam Chairman, Madam Speaker, I'm going to go through one more list that's included in this Bill because I think it's important, and then there's an Amendment that I'm going to call that just clarifies a little bit more, and we'll be done with this Bill.

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Physical illness or loss of motor skills, emotional disorder, a mental illness, drug abuse, illegal, incompetent or negligent conduct in the practice of medicine, possession, use or distribution of controlled substances or legend drugs, misrepresentation or concealment of material facts in obtaining or reinstating a medical license.

Those are the things that are required reporting, and I might have misspoken, Madam Speaker, about a list of impairments, because that certainly isn't. That is a list of things that need to be reported.

But the list is that which would present someone from doing their job. We know first and foremost that it's probably substance abuse be it alcohol or drugs.

The problem that exists in the healthcare world is the use and abuse of prescription drugs, mental illness, physical inability, and those kinds of things that could be identified as preventing a healthcare professional from doing their job, something that they could seek help for, and be returned to the workplace

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and deemed to be fit and suitable for that particular work.

That being said, Madam Speaker, there is an Amendment that has been filed that does just a little bit more, and it deals with the reporting or the confidentiality of records while a person is in the program, and I would ask that it be called, and I be allowed to summarize that. It is LCO Number 7345.

DEPUTY SPEAKER KIRKLEY-BEY:

Would the Clerk please call LCO Number 7345, which will be designated House Amendment "A".

CLERK:

LCO Number 7345, House "A", offered by Representative Sayers et al.

DEPUTY SPEAKER KIRKLEY-BEY:

The Representative has asked to summarize. Any objection? Any objection? Hearing none, please proceed, Representative Malone, with your summarization.

REP. MALONE: (47th)

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Thank you, Madam Speaker. This Amendment, as I said, will clean up this Bill. It is part of that, which was offered to us by those who are participating in the formulation of the Bill, the Medical Society and the Department of Public Health, and this Amendment simply states that a person who is participating in a program, it establishes the necessary means for keeping their records confidential while they are participating in a program, and are doing so in good standing. I move adoption, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

The question before us is on adoption. Let me try your minds. All those in favor please indicate by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER KIRKLEY-BEY:

Those opposed, Nay. The Ayes have it. The
Amendment has been adopted. Will you remark further

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on the Amendment that is before us? Will you remark further on the Amendment that is before us?

If not, will you remark on the Bill as amended? Oh, on the Amendment. I'm sorry. I didn't see you. Representative Carson of the 108th you have the floor.
REP. CARSON: (108th)

Thank you, Madam Speaker. I'd like to clarify. I had my light on before we approved this Amendment, and I had a question. Did we approve the Amendment, Madam Speaker?

DEPUTY SPEAKER KIRKLEY-BEY:

Yes, we did. I'm sorry. I didn't see you.
REP. CARSON: (108th)

Well, Sir, I had a question for purposes of legislative intent on that Amendment.

DEPUTY SPEAKER KIRKLEY-BEY:

Please proceed. Yes, please proceed, Representative.

REP. CARSON: (108th)

Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

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Representative Malone, prepare yourself for questioning, and I apologize profusely.

REP. CARSON: (108th)

Thank you, Madam Speaker, and you know, perhaps the Bill as amended, I could ask the same question. However, you decide, through you to the proponent of the amended.

DEPUTY SPEAKER KIRKLEY-BEY:

The Bill was amended. So if you'd do the Bill as amended, and address in that fashion, I would appreciate it. Thank you for your kindness.

REP. CARSON: (108th)

Thank you. And through you to Representative Malone, in Line 15 of the Amendment on this amended Bill, we refer to healthcare professionals.

I just wanted to be sure that perhaps the word the, or the could have been included, that we are very specifically talking about the healthcare professionals who were, we referred to in the underlying Bill in Lines 318 through 336, and that basically it's the same healthcare professionals, and

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that this group of professionals, if upon compliance, would have the opportunity to return to the program.

I just wanted to be sure of that for the purposes of legislative intent. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you. Representative Malone.

REP. MALONE: (47th)

Yes, Madam Speaker, thank you very much. That is an excellent point that my colleague brings up, and the reference is to the healthcare professionals, which I identified and went through the list of those who are included who can be returned back to the program if necessary.

So I think it's valuable that my colleague brought that up, and the answer is in the affirmative.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Carson.

REP. CARSON: (108th)

Thank you, Madam Speaker. I thank the gentleman for his answer, and I would just wholeheartedly support this Bill today.

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As Representative Malone indicated, folks have been working on this for many, many years. There is an overwhelming need out there for us to address this, and in the end, it's our professionals, but also our patients who benefit.

So I urge support. Again, this Bill, I think we should thank Representative Malone and the coalition of folks, the Department of Public Health and others who have worked so hard on this issue, and again, offer my wholehearted support. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, and I apologize again. Representative DelGobbo of the 70th, you have the floor. Representative Fleischmann of the 18th, you have the floor, Sir.

REP. FLEISCHMANN: (18th)

Thank you, Madam Speaker. If I may, through you, Madam Speaker, some questions to the proponent of the Bill.

DEPUTY SPEAKER KIRKLEY-BEY:

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Representative Malone, please prepare yourself.

Please frame your question.

REP. FLEISCHMANN: (18th)

Thank you, Madam Speaker, and let me preface my questions by saying, I hadn't realized this Bill was running today. I would have preferred to have had initial conversations with Representative Malone.

I'm strongly supportive of the Bill that's before us, and I just had some concerns, and wanted to clarify questions about what documents would be public, and which would be confidential. It's discussed in the Bill, but there are a couple of situations where it's not completely clear, and I just was interested in clarification.

The Bill states that records of referral and investigation to the Department of Public Health are confidential for the duration of the healthcare professional's participation in the program, and where the healthcare professional has successfully completed the program.

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I'm wondering, what happens when the Assistance Program makes a referral to the Department of Public Health, and that Department determines that the healthcare professional is not eligible to participate in the Assistance Program? Are records of those matters public or confidential? Through you, Madam Chair.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Malone.

REP. MALONE: (47th)

Thank you, Madam Speaker. I believe what my colleague is getting to is that point when someone is not allowed to.

As I indicated, someone who has a prior history, who has been in the situation before, someone who has harmed a patient, or someone who has been arrested, would not be allowed to participate in the program, and then the records, of course, would go to the Department of Public Health, who is charged with the responsibility of sanctioning healthcare professionals.

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DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fleischmann.

REP. FLEISCHMANN: (18th)

Thank you, Madam Speaker. So those records, which have gone to the Department of Public Health, would those be available to the public? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Malone.

REP. MALONE: (47th)

Thank you, Madam Speaker. I'm not entirely sure what the process for making records available is with the Department of Public Health.

This Bill does not concern itself with what they do now. I would have to say that I believe that those things that occur that require sanction by the Department of Public Health are a matter of public record.

This Bill does not direct that certain pieces of the record be disclosed or not disclosed for someone

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who doesn't qualify for a program. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fleischmann.

REP. FLEISCHMANN:

Thank you, Madam Speaker. I appreciate that response. It is a complicated situation. I have the same understanding that Representative Malone does, namely, that those records that we just talked about would be public information since they obviously have critical implications for public policy, and I think are covered under the Freedom of Information Act.

The other circumstances I just wanted to clarify. If an individual fails to participate in the program in accordance with the agreed upon terms, so, you know, maybe they started the program, and then they left it, or they participated but not in the manner that had been decreed by the State Department. Are those records public? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Malone.

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REP. MALONE: (47th)

Thank you, Madam Speaker. Not necessarily. As far as this Bill goes, an individual could present themselves with a problem, and be admitted to a program. A record of it would be made available to the Department of Public Health.

If someone does not finish that program, yes, I started out, and I think I indicated the wrong thing when I started out.

Specific in this Bill. This is not an easy, softer way for someone to get through a problem. This is not a way to hide out or anything.

So indicated in this Bill is the opportunity to participate in the program, and if the recommendation is that you participate in a program, however that may be, what it is, you know, a regimen of counseling, a treatment program.

If the healthcare professional does not comply with the recommendations, then essentially all bets are off. It's reported to the Department of Public Health that this healthcare professional has not done

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what they were supposed to, taken advantage of the opportunity given them, and then as I indicated, all bets are off. The Department of Public Health can sanction as they see fit. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fleischmann.

REP. FLEISCHMANN: (18th)

Thank you, Madam Speaker. I appreciate that response, and I think that also comports with my understanding, which is when you say all bets are off.

Now that this person has failed to really fully and properly participate in this great program that you're setting up, they're subject to sanction, and their records become public because they are an individual who at this point is representing in some ways, a threat to the public.

So just the last situation I wanted to clarify relates to a person who begins the program, is following all of its terms, and then departs before completing the program.

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I think I understand the answer, but just for purposes of legislative intent, the same question here, you know, what happens to those records? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Malone.

REP. MALONE: (47th)

Thank you, Madam Speaker, and through you to the colleague who's given me this question. It's not a little bit, it's not 75%, it's not 90%. It's completion of the program.

No one's going to get away with half of the measures. There's a phrase out there that some of us are familiar that says half measures avail us nothing.

In most cases, it's a lifetime effort that someone has to put forth to maintain their sobriety or maintain their life, and it's all or nothing. You can't go a long, long way and consider that I've done what I'm supposed to. It's too serious when you're dealing with healthcare professionals.

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So the answer, through you, Madam Speaker, is going a long way in the program and then not finishing it is the same as refusing to finish it. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Fleischmann.

REP. FLEISCHMANN: (18th)

Thank you, Madam Speaker, and I thank my good colleague from Norwich for his patience with my questions.

I just felt it was important that we clarify this, and his responses really match up with what my understanding of our intent is, namely, that if someone who's participating doesn't meet either of these criteria, then they haven't successfully completed the program, and the records involved are part of the public domain since we have a public interest in it.

So to come back to the underlying purpose here, this is a great Bill. This is an important Bill. I really respect, admire and appreciate the work that

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Representative Malone has put into this over more than one Session, and I think it's going to be a great step forward for all of us to have this program in place.

It will be an improvement for the healthcare professionals involved, and a great improvement for all of their clients and potential clients and patients, since we can all know that people who have these challenges have dealt with them.

So I hope Members in the Chamber will join me in supporting this good measure. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative. Representative Sayers of the 60th, you have the floor, Ma'am.

REP. SAYERS: (60th)

Thank you, Madam Speaker. I rise in support of this Bill, and in particular to give special thanks to Representative Malone for all the work he has done.

This is a Bill that has been before the Public Health Committee for all the years that I have been here, and in the past, up until last year, it is a

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bill that was never able to progress to this point in legislation.

And part of it was, how do you weigh the confidentiality of persons or people that are in treatment or seeking treatment versus the public good.

In other words, to protect the public so that those healthcare professionals are not impairing them in any way.

And last year when the Bill came before us again, Representative Malone had asked that he work on it, and it was through his expertise that we were able to really craft that confidentiality piece that was so important, and yet maintained the public good.

And so I really, in particular, rise to thank him for that work that he has done, and thank him and hope everybody will support the Bill.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative. Representative Thompson of the 13th, you have the floor, Sir.

REP. THOMPSON: (13th)

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Thank you, Madam Speaker. This Bill has sailed through the Committees that have reviewed it, and the testimony, or the speakers today have certainly brought out its good points and questioned everything about it.

So I would like to add a historical note to it. I happened to be in the House when the old Public Personnel Committee held its first hearing on the Employee Assistance Program, and at that time the Commissioner of Mental Health was Commissioner Bloomberg, and he was one of the prime movers for that program.

The Governor at that time was John Dempsey, and he had some real serious reservations about the program, so it came down to a hearing, and there was still some doubt whether Connecticut would be one of the first states in the nation to come forward with an Employee Assistance Program.

The, one of the first witnesses that day was Commissioner Bloomberg, and what made it so dramatic was that Commissioner Bloomberg drove from upper New

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Hampshire to be present at the hearing that morning.

He testified, and he went back to New Hampshire.

His daughter had been killed in an automobile accident the night before, and he thought so strongly and believed so strongly in this Bill, he made that trip and under those circumstances.

So I'm glad that, I think wherever Commissioner Bloomberg is now, he would be very happy with what we're doing here today for members of his own profession. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Will you remark further? Will you remark further on the Bill as amended? Will you remark further on the Bill as amended?

If not, staff and guests please come to the Well. Members take your seats. The machine will be opened.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is taking a Roll Call Vote. Members to the Chamber, please.

SPEAKER AMANN:

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Have all the Members voted? Have all the Members voted? If all the Members have voted, please check the board to make sure your vote has been properly cast.

If all the Members have voted, the machine will be locked, and the Clerk will take a tally.

Representative Shapiro, for what reason do you stand, Sir.

REP. SHAPIRO: (144th)

Mr. Speaker, thank you. I rise to cast my vote in the affirmative.

SPEAKER AMANN:

I'm sorry--

REP. SHAPIRO: (144th)

Let the record reflect that I would cast in the affirmative.

SPEAKER AMANN:

Thank you, Sir, you know, and I apologize, Representative Shapiro because I thought I saw you walk out before, so I thought you already voted. I apologize.

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I'll mark that in the affirmative. You didn't lock it anyways, right, so you still got in. You got in. They got you recorded. Please announce the tally, Mr. Clerk.

CLERK:

House Bill Number 7155, as amended by House Amendment Schedule "A".

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	144
Those voting Nay	0
Those absent and not voting	7

SPEAKER AMANN:

The Bill passes. Could I ask everybody to please stay in the Chamber for a moment.

(GAVEL)

I would ask everybody to please stay in the Chamber for a second. There's a couple of quick introductions, but also announcements that we need to make, so we need everybody in the Chamber.

JOINT
STANDING
COMMITTEE
HEARINGS

PUBLIC HEALTH

PART10
2951-3276

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Thank you. We also, I'm just reminded, want you to please turn your cell phones off or at least put them on the rumble, whatever it is, vibrate so that we will not be disrupted in the course of the meeting.

I guess that's it. Any other, are we on? Yes. We are on television, so please, Committee Members and others, make sure your microphone is on when you speak. Our first speaker is Commissioner Galvin. Good morning.

COMM. ROBERT GALVIN: Good morning, Senator. Good morning, Representative Sayers, distinguished legislators, and members of the public.

HB 7111
HB 7155

I am Dr. Bob Galvin. I am the State Commissioner of Public Health. I am here to submit some oral testimony on three bills, the first being House Bill 7089, AN ACT CONCERNING SUPERVISING PHYSICIANS FOR PHYSICIAN ASSISTANTS.

This is a Governor's bill. Physicians who supervise physician assistants are currently required to file a one-time registration application and a fee of \$37.50 with the department prior to taking on supervisor responsibility for the first time.

Although the bill would eliminate the registration requirement, it does not change the supervisory relationship between a physician assistant and a supervising physician, and continues to provide the same level of public protection as the current process.

costs associated with establishing and implementing an online system.

The Governor's proposed budget for 2008-2009 includes the funding that is necessary to update the department's licensing system to allow for online license renewal and associated transactions, including data collection.

The funding provided to the department in the Governor's proposed budget will allow for implementation of the online system for physicians and surgeons and nurses on or before 30 June 2009.

The third bill is Raised House Bill 7155, AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTHCARE PROFESSIONALS. The department is in support of Raise House Bill 7155.

It allows for the establishment for a professional assistance program that will provide confidential education, prevention, intervention, referral assistance, rehabilitation, and support services to all licensed healthcare professionals in the state who have chemical dependency, emotional or behavior disorder, or physical or mental illness.

This is a combined bill which occurred working between the State Health Department and a coalition of other interested parties, including the State Medical Association and many others.

We reached a consensus opinion, which is included in the language of the bill. We feel that it will not only help us to keep worthy individuals within the system once they have had a rehabilitation/intervention, but also it protects the citizens of the state and gives us an opportunity to move ahead with programs, which will help all professionals, doctors, nurses, and many others.

I'm available to answer any questions. I have submitted some written testimony on other bills, and I am at your disposal to clarify any of these issues.

SEN. HANDLEY: Thank you, Doctor. Representative Sayers has a question.

REP. SAYERS: Thank you. Dr. Galvin, on Raised House Bill 7111, the online renewal, if the dates were changed, would that resolve your problems with the bill?

COMM. ROBERT GALVIN: I haven't looked at the direct bill language, but we had the budgetary item for the '08-'09 year, and if the language were changed to incorporate that date, I think that would do it.

REP. SAYERS: Thank you. So it's just a matter of making sure you have the funding, so that you can implement it.

COMM. ROBERT GALVIN: Yes, Ma'am.

REP. SAYERS: Thank you very much.

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So, the sooner we can get that in an automated style, the better.

REP. SAYERS: Information hidden in the drawer is useless. Any questions from Members of the Committee? Okay. Seeing none, thank you very much for your testimony.

We will now move on to House Bill 7155. And the first speaker is Dr. Angelo Carraba, followed by Dr. Al Herzog.

DR. ANGELO CARRABA: Good afternoon. My name is Dr. Angelo Carraba and I am here today with Attorney Maureen Dinnan who will help answer any technical questions regarding the law.

I am presently the President of the Connecticut State Medical Society. And I am here today representing not only the 7,000 physicians in the Medical Society, but also the members of the Coalition for Healthcare Professionals.

This is a coalition of physicians, nurses, dentists, veterinarians, physicians' assistants, who all work together with the Department of Public Health over the past year.

To make an already good bill a little bit better. The revised language that you are considering today creates a healthcare provider health program that will lower the barriers of getting help.

Caring individuals working in these fields do not get treatment because they are afraid of

losing their licenses or having their reputations tarnished.

We at Connecticut State Medical Society have had a long history of helping our membership deal with impairment, addiction and mental illness. The two keys to our success over the years has been clear parameters for eligibility and confidentiality.

As a physician who is involved across the state with other hospitals, physician groups. It is clear that there are a number of healthcare providers, not only physicians, nurses and nurses' aides and PAs.

That could benefit by being availed of a system that is private, secure and has a clear cut pattern for treatment.

That would insure their ability to continue and provide safe patient care while protecting their license and their ability to be productive members of our community.

The program created by House Bill 7155 probably will not fit each of these healthcare providers. But those who do not agree to comply with the terms and conditions of the plan would be turned over to the Department of Public Health for independent investigation.

Today there is no confidentiality in the program to assist all members of the healthcare team. And especially nurses, dentists, veterinarians and other healthcare providers.

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It is time that we create one so that we can encourage peers to get help without fear of punishment or retribution. We really encourage you to pass House Bill 7155 and substitute the new language. Thank you.

REP. SAYERS: Thank you. Any questions from Members of the Committee? Representative Malone.

REP. MALONE: Thank you, Madam Chairwoman. Doctor, we passed the bill here last year that did precisely this. For one or two reasons it did not become law last year. Now this is a new bill.

DR. ANGELO CARRABA: This is basically the same bill with some additions to it.

REP. MALONE: The additions are?

DR. ANGELO CARRABA: --to address that most accurately is Attorney Dinnan.

REP. MALONE: Okay. The additions to this bill, they were not included in last year's bill?

MAUREEN DINNAN: The difference between the revised language that we put before you today and that we support are essentially two primary things. In last year's bill it enabled more than one program to be established.

And this year the revised language, which we worked out with the Department of Public Health, we have agreed to one strong program for the State of Connecticut.

And the coalition feels that having one strong program is going to give the consistency and the continuity and accountability that the public and the participants in the program, as well as the people administering the program and overseeing the program want.

The other piece that is in this year's language goes again to the accountability factor. And you will recall in last year's bill, as in this year's bill, there is internally a medical revue committee that provides internal accountability.

Over that, there is an oversight committee made up of members of the Department of Public Health as well as three other members picked by the Assistance Program and a member of the Department of Mental Health and Addiction Services.

That provides accountability. But the question that was raised to us, by the Department of Public Health was, if in the audit that was already provided in the statute.

And if the oversight committee saw something that they felt really needed attention. What would be their avenue to take action without just shutting down the program? Saying it did not comply with their statute?

And so, there is a provision you will see in Section 2e that provides for a mechanism to develop a corrective action plan as one is warranted. To be able to implement that

corrective action plan, satisfy the corrective action plan.

And if necessary, while that is being worked out, to refer some or all of the records to the Department of Public Health.

The Coalition felt that it was a good, fair method and we endorse the program. There is an overwhelming need for it in this state.

The other thing in this language that we ask you to pay careful attention to is, the raised bill changed the confidentiality of language that was in last year's bill.

So our revised language restores the confidentiality language that was worked out last year with help from the trial lawyers, the Department and the Coalition. Thank you.

REP. MALONE: Thank you, Counselor. That is all, Madam Chairwoman.

REP. SAYERS: Thank you, Representative. Any other questions from Members of the Committee? Thank you. The next speaker is Dr. Al Herzog followed by Tricia Marriott.

And I might add, while we are waiting for the next speaker to come forward that, Representative Malone and Senator Slossberg, both last year and this year, did a great deal of work on this bill to make sure that we had this bill in place this year. I really want to make sure that we thank them publicly.

DR. AL HERZOG: Good afternoon, Madam Chair Sayers and Members of the Public Health Committee. As you know, my name is Al Herzog. I come before you to speak in strong support of House Bill 7155, AN ACT CONCERNING PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTHCARE PROFESSIONALS.

I was here last year speaking for a similar bill, as was mentioned just a minute ago. But I come to you with many hats on this topic. One, I am still the Chair of our own committee for the Society's Committee on Physicians Health.

It is the only health professional program that is presently existing in this state. It has been in operation for 20 years. It has had difficulty with confidentiality issues.

I am also co-chair of our own legislative committee. I am Medical Director of the Intensive Outpatient Program at the Institute of Living for Professionals.

And I have treated professionals of various kinds in the state for over 30 years. So, I come with background to this topic. And I try not to be repetitive to what has been said so well by Dr. Carraba and by Maureen before me.

We, and by we, I mean, truly members of the Department of Health and this collaborative that Dr. Carraba talked to you about. Of really all the major healthcare professionals in the state. Nurses, nurse clinicians, physician assistants, dentists, veterinarians.

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To hopefully speak in strong support with your support for this. What we would like to do is to really bring a bill to you with an awful lot of behind the scenes discussions that have taken place.

That balances, as was pointed out, the true need for public safety on the one hand. Department of Health and the need for confidentiality, if you want to treat professionals.

Unless there is some measure of confidentiality, there is no successful program. And the struggle has been how to divvy that up.

And I want to give really a lot of thanks to Commissioner Galvin and also his senior staff. For their working with us to make this one bill, not two separate bills. One of your questions that you just raised a few minutes ago.

And as you have noticed, hopefully have noticed, there is no fiscal note to you for the state. We will do this with our own resources. We should do it with our own resources.

I ask you to give strong support to this bill and I hope we can move it forward unlike last year. We can work to its completion. I think if we do, there is no doubt in my mind, we will have other states copy this comprehensive collaborative bill.

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And put it fully in effect. I know I, you, all of us, will be proud of what we will be doing for all of us. Thank you very much for your attention.

REP. SAYERS: Thank you very much. Any questions? Seeing none. Thank you for your testimony. The next speaker is Tricia Marriott followed by Dr. Ken Freedman.

TRICIA MARRIOTT: Good afternoon, Members of the HB 7155 Committee. My name is Tricia Marriott. I am a physician assistant practicing at Waterbury Hospital. I represent the Connecticut Academy of Physician Assistants.

The Connecticut Academy of Physician Assistants requests the Public Health Committee give a joint federal substitute for House Bill 7155, incorporating the new language that has been agreed upon by the Department of Public Health and the Coalition.

Physician assistants, like other healthcare practitioners in the State of Connecticut, currently do not have access to a confidential referral process for impaired practitioners.

As a result, practitioners are hesitant to seek intervention for referral or for treatment. This compromises patient safety as well as the overall integrity of our healthcare team.

The proposed bill, supported by a large coalition of diverse practitioners make prevention/intervention referral assistance and

support services available to healthcare practitioners across many disciplines.

Combining resources analogous to one unified program is practical, efficient and cost effective.

There are safety nets and ongoing monitoring systems built into the program to insure that the practitioner is able to practice with skill and safety. With mandatory referral to the Department of Public Health for noncompliance.

The coalition and the Department of Public Health have worked together to insure that the program will promote, protect and enhance quality medical care for our patients.

As well as promote the health and well being of our healthcare practitioners across the state. The physician assistants support House Bill 7155 because it is good for the citizens of Connecticut. Any questions?

REP. SAYERS: Thank you. Any questions from Members of the Committee? Hearing none, thank you very much for your testimony, Tricia. The next speaker is Dr. Ken Freedman. Followed by Dr. Mark Kraus.

DR. KEN FREEDMAN: Good afternoon, Representative Sayers and other Members of the Committee of Public Health. My name is Dr. Ken Freedman. I appeared before you last year as vice president. Now I am president of the Connecticut Chapter of the American Society of Addiction Medicine.

For 12 years I have practiced as an internist and addiction medicine specialist. I currently serve as the Medical Director of Ambulatory Care Services at Connecticut Valley Hospital. And as a Member of the Committee on Physician Health for the Hartford County Medical Association.

My colleagues in the Connecticut Chapter of ASAM and I have been actively involved in the evaluation, treatment, rehabilitation and monitoring of impaired healthcare professionals including physicians. Our organization enthusiastically supports the revised language in raised House Bill 7155.

Over the course of their careers, an estimated 9,000 Connecticut healthcare professionals will suffer from impairment due to substance abuse, depression and other psychiatric disorders and/or physical illness.

Early intervention and treatment for these impaired professionals, who have dedicated themselves to the service of our community increases the likelihood of successful rehabilitation before public safety is jeopardized.

This intervention will more than likely occur within the framework of the confidential and responsible oversight program created by revised House Bill 7155.

Professionals will have the opportunity to receive the benefits of the knowledge, support

and skill of their mental health addiction specialist colleagues.

Within a comprehensive, interdisciplinary approach to their potential impairment. This sharing of resources will lead to well organized and cost effective care.

A prerequisite of a professional's confidential participation will be either consistent in ongoing cooperation with the HCPAP.

Accountability is provided for in Section 2A-F by the requirement that the healthcare professional assistance program have regular meetings with the Department of Public Health.

The DPH would be informed of the number and nature of healthcare professionals receiving these services, the nature of their treatment and the scope of supervision under which they are operating.

The current system for impaired physicians does not sufficiently promote appropriate rehabilitation. Many impaired physicians do not get referred to the DPH.

Many others seek out of state treatment. Both of these results lead to insufficient monitoring of the impaired professionals. Through ongoing monitoring--

REP. SAYERS: Could you summarize, please?

DR. KEN FREEDMAN: Through ongoing monitoring, we will be able to insure that these professionals

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are practicing with the necessary skill and safety to deliver the high quality of care that our families, friends and the public deserve. Thank you for your consideration.

REP. SAYERS: Thank you very much. Any questions? Seeing none, we will go on to Dr. Mark Kraus. Followed by Marilyn Richard.

UNIDENTIFIED SPEAKER: I believe Dr. Kraus is not here.

REP. SAYERS: Thank you. Marilyn Richard followed by Dede Dwyer.

MARILYN RICHARD: Good afternoon, Senator Handley, Representative Sayers and Members of the Public Health Committee.

Thank you for the opportunity to provide testimony on behalf of the Connecticut Nurses Association, the professional organization for registered nurses in Connecticut.

I am Marilyn Richard, a member of the Association's Government Relations Committee. I am an advanced practiced registered nurse in psych mental health. And I have practiced nursing for over 30 years.

I am providing comments in support of Raised House Bill 7155, AN ACT CONCERNING PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTHCARE PROFESSIONALS.

For over 17 years the Connecticut Nurses Association has spearheaded efforts for a

program to provide a voluntary alternative to the disciplinary process for nurses who have or are at risk of impairment due to substance abuse, mental health, or physical disabilities.

We now join with our colleagues from the Connecticut Association of Physicians Assistants, the Connecticut State Dental Society, the Connecticut State Medical Society and the Connecticut Veterinary Medical Society.

I must say, it is a great pleasure to see so many colleagues and be united on this issue. We represent over 90,000 healthcare professionals. And with the Connecticut Department of Public Health's work as well in support of this important legislation.

The revised language of this bill that is supported is attached to this testimony and I am sure that you have it anyway.

CNA supports such a program because healthcare professional health programs are based on best practices and research in the area of mental health and addiction. And address illness in many conditions that are treatable.

Public health and safety is promoted through a program that provides education, early intervention and close monitoring and a case management program run by mental health addiction specialists.

This alliance will provide a strong interdisciplinary collaboration with strict guidelines to insure quality. The time is

decreased between the practitioner's acknowledgement of a problem and the time that he or she enters a recovery program.

Earlier intervention provides increased public safety and earlier return of participants to safe and competent practice. The program provides confidentiality for the practitioner who is voluntarily seeking assistance, which is an essential and critical component of best practice models.

The program insured the practitioners were not able to practice with skill and safety are referred to the appropriate agency as directed by state law.

The American Nurses Association supports alternative programs and addresses this as a part of the professional's responsibility to impairment problems.

Since the late 1980s, the National Council State Board of Nurses has considered alternative programs as a standard of practice.

I want to give special attention and thanks to Senator Slossberg and Representative Malone for all the work that CNA appreciates so much. If you have any questions I would be glad to answer.

REP. SAYERS: Thank you. Any questions from Members of the Committee? Thank you. The next speaker is Dede Dwyer followed by Pat Holloran.

DEDE DWYER: Good afternoon, Senator Slossberg, Senator Handley, Representative Sayers and Representative Malone and Members of the Public Health Committee.

I am Dede Dwyer and am a registered nurse for the past 27 years, a member of the Recovering Nurse Community of Connecticut and a member of Nurses for Nurses, an anonymous peer support group for nurses in recovery. And I have been a member for the last nine years. I am here today to testify in support of Revised House Bill 7155.

This legislation captures the key elements of a true alternative to discipline program. Based on scientific research and best practices, alternative programs afford immediate intervention, assisting professionals in obtaining a full assessment of the needs, the appropriate level of care, confidentiality, relapse prevention and education.

Confidentiality, an integral component of any program dealing with the issues of substance abuse and mental illness, not only safeguards the dignity of the individual, but it allows the person to concentrate on what needs to be done, which means full engagement in treatment and subsequent recovery.

More specifically, confidentiality eliminates one of the major barriers facing impaired healthcare practitioners today.

Through this program, education and prevention will be conducted statewide and be consistent

in its content. Therefore, healthcare facilities and their staff will fully understand the need for early intervention, appropriate treatment and ongoing support.

This will subsequently enable their colleagues to return to practice with skill and safety in their respective professional settings.

A case management system administered by skilled mental health and addiction specialists will conduct the close monitoring and relapse prevention components, which would then establish an environment of consistency.

Offering dedicated ongoing support to those engaged in the program. Likewise, this legislation calls for several levels of accountability, which will truly preserve patient safety as well as the overall integrity of the healthcare team of physician, nurse and patient.

Entities that have collaborated on this legislation have worked long and hard to bring about a positive move forward for all healthcare practitioners who are, or may be impaired, by chemical dependency, physical or mental illness.

By doing the right thing for the right reasons, they will be affording the same dignity, confidentiality and respect extended to any patient, regardless of their disease.

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Thank you for the opportunity to address the Committee. And I respectfully submit this testimony and I am available for questions.

REP. SAYERS: Thank you very much. Questions from Members of the Committee? Seeing none, thank you for your testimony.

DEDE DWYER: Thank you.

REP. SAYERS: And the next speaker is Pat Holloran followed by Thomas Calnon.

PAT HOLLORAN: Hi. Representative Sayers, Representative Malone and Senator Slossberg, I do publicly thank you for supporting the bill.

My name is Pat Holloran. I am the Chair of the Recovering Nurse Community of Connecticut. I am a registered nurse and have been that way for 35 years. And that scares me.

The part of the professional assistance program that I would like to address is the early recognition and facilitation into treatment for impaired professionals and the education about how to recognize impairment in a colleague or themselves.

Every week at our Nurses for Nurses meetings, nurses report that they knew very little, if anything, about addiction. And could not even define recovery before they were facing their own.

Education about addiction in general and the particular characteristics about addiction

within the health professions is sorely needed. it is the accepted norm within much of healthcare to treat addiction through the funnel of attitude.

When it is one of our own, we usually judge and ignore. Or when we do want to help, we do not know how. And more frighteningly, neither do any of our superiors or officials that we turn to for direction or resolution.

The most vulnerable time is when the healthcare worker is discovered to be impaired and then confronted.

This program will educate healthcare professionals how to recognize and safely and correctly intervene to save the health career and life of one of our own. And by doing this, protect the healthcare consumer in Connecticut.

I recently came across a British study that reveals over the last ten years the suicide rate for female nurses is four times higher than that of women in general. Remember, 90% of all nurses are still female.

Doctors are twice as likely to kill themselves compared with people working in other professions.

Overwork, stress and easy access to drugs are being blamed for the high suicide rates within medicine. These shocking figures show that being a doctor or a nurse carries the unique risk of suicide.

Doctors are working in inherently stressful jobs. They work very long hours in difficult circumstances. And the work itself is extremely taxing.

It is also the case that doctors have a reluctance to seek professional help and have a professional work ethic which means they feel they have to struggle on and keep working even when ill, sometimes with tragic results. We can apply this to all who work in healthcare.

We can only wonder how much of the attitude and the perceived reactions of peers upon discovery of one addicted or mentally ill contributes to the progression to dangerous and fatal signs and symptoms.

This all just underscores the need to have the vehicle of the Professional Assistance Program for Healthcare Professionals, Revised House Bill 7155, to recognize and then intervene in a therapeutic, confidential and compassionate manner.

As a start to a therapeutic and confidential, yet defined and firm monitoring of recovery and practice. Thank you.

REP. SAYERS: The next speaker is Thomas Calnon, followed by Douglas Gibson.

DR. THOMAS CALNON: Good afternoon, Representative Sayers and Members of the Public Health Committee. My name is Thomas Calnon. I am a dentist with a general practice in Norwalk.

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I am here today to voice support for House Bill 7155, AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTHCARE PROFESSIONALS.

I am chairman of the Committee for the Connecticut State Dental Association that is called the Professional Health Committee.

The purpose of it is to provide some measure of support for dentists facing issues with alcohol and substance abuse as well as those involving physical disabilities and emotional problems.

Typically, a call will come into a hotline number that we maintain for our membership. And a confidential visit will be made by one or two members from this Committee.

We are not certified counselors or therapists. And therefore, we cannot perform any sort of diagnosis.

But we do try to listen. Find out what is going on and try to direct the person we are seeing into some sort of therapy, 12-step program or maybe even to a treatment center.

Often we are successful in at least getting people started on the road to recovery. Beyond that, though, we are very limited in our approach because we have no formal program for control, monitoring and follow-up during the first few years of recovery.

And I am convinced that this close, ongoing support early in recovery, is essential for long term success.

The Connecticut State Dental Association is fairly small membership wise by national standards and most likely would not be able to have a comprehensive assistance program of its own.

House Bill 7155, however, proposes a single such assistance program for all healthcare professions in the State of Connecticut. And, the CSDA can be part of it.

It would provide us with a resource for crisis intervention, treatment referral, monitoring and follow-up and for education for our membership. Because of this, the CSDA strongly supports this bill.

For any program to be successful, it must also have provisions that call for the protection of patients' rights and provide accountability to state regulatory agencies.

House Bill 7155 provides mechanisms for insuring that these rates are maintained and that regular reporting to required state agencies is carried out.

In summary, I feel that this bill strikes a comfortable balance between providing assistance to afflicted health professionals on the one hand, and providing reasonable protection and safeguards to the public on the other. I support it and hope you will also.

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REP. SAYERS: Thank you very much. Questions from Members of the Committee? Thank you, Sir. Seeing none, we move on to Dr. Douglas Gibson followed by Hank Pawlowski. Dr. Gibson is gone? All right, Hank Pawlowski followed by Dr. Arnold Goldman.

HANK PAWLOWSKI: Good afternoon, Representative Sayers and members of the Public Health Committee. My name is Hank Pawlowski and I am the legislative liaison from the Freedom of Information Commission.

I am here to testify on House Bill 7155. This legislation authorizes professional societies and organizations to establish programs for the treatment of impaired healthcare professionals.

The assistance programs created will be monitored by the Department of Public Health but would enjoy strong confidentiality provisions.

The Freedom of Information Commission understands the need for confidentiality, and the early stages of these difficult situations, to encourage those healthcare professionals who need help, to seek it.

The Commission, however, is concerned that the legislation, as proposed, seeks to keep this information confidential by assistance programs in the Department of Public Health indefinitely.

The Department of Public Health, in its sole discretion would decide that any of this information become available for public inspection.

The Commission would ask this Committee and the general assembly to consider clarifying the language in the legislation to set clear guidelines similar to those for physicians that currently exist in Section 20-13E and Section 19A-14D, as to when this confidential information would be available to the public.

The privacy of these impaired healthcare professionals must be properly balanced with the right of the public to be informed when making decisions about their healthcare providers. Thank you.

REP. SAYERS: Thank you very much. Any questions from Members of the Committee? Representative Widlitz.

REP. WIDLITZ: Thank you, Madam Chair. Good afternoon. I am curious about why you would ever want to reveal this type of information. If a person had a physical disability.

If they had any other kind of a health problem other than an addiction problem, no one would ever expect that to be released. Why would we single out this particular bit of information to release that to the public?

HANK PAWLOWSKI: We are looking for legislation that tracks what currently is provided for physicians which allows for if the individual

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is not following the prescribed course of treatment.

And sort of the confidentiality will get removed through that disciplinary process. So we are just trying to make sure that the programs that are set up for these different groups under this bill would have similar provisions.

Of if there is an issue where they are not complying with what they are supposed to be complying with, there is an oversight capability.

And this would only affect impairment to the point where it would affect their practice. Or their potential interaction with patients. That is what the Commission is concerned about.

Right now the bill, as drafted, is unclear as to whether or not that similar protection were attached. If we were certain that those protections would be there, the Commission would not have an issue with the bill at all. We understand the need for confidentiality.

REP. WIDLITZ: Thank you.

REP. SAYERS: Representative Malone.

REP. MALONE: Thank you, Madam Chairwoman. You did not come forward last year with this information or this testimony when this bill was being drafted last year, did you?

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HANK PAWLOWSKI: I have only been with the Commission for about six weeks. Previously we did not have a liaison. So it may have passed. I am not able to answer that question.

REP. MALONE: There was someone working for the Freedom of Information Commission last year. and they were not concerned about it last year.

HANK PAWLOWSKI: When I raised the bill, I raised the concern this year.

REP. MALONE: Okay.

HANK PAWLOWSKI: We would be willing to work with drafters to make sure that the parallels are there as currently exist in the program for physicians.

Just to insure that after a certain period of time or there is some sort of oversight or opportunity for a potentially non-compliant healthcare professional, that knowledge to have some way of getting out. And only in the case of non-compliance or a finding of some sort of danger to the public.

REP. MALONE: Are you saying that you do not trust the mechanism that is set up now? Because this whole bill, and it has been debated for two years.

One of the big problems that we had with it is that the Department of Public Health did not trust anybody would make certain that people who needed help got help.

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And people who did comply by the rules of the program would be shielded somehow, which is absurd. And the number of times we had to explain to the Department of Public Health, that is absurd.

Now I am troubled to have you say that, if it is indeed what you are saying, that you do not trust that the provision of this bill will be carried out to the satisfaction of the Freedom of Information Committee.

HANK PAWLOWSKI: With all due respect, Representative Malone, I do not think that is what we are saying.

REP. MALONE: That is what I am hearing.

HANK PAWLOWSKI: All we want to do is have these new programs track what is currently in place through the Department of Public Health for physicians. There is language in the sections that I referenced that is not in the bill as currently drafted.

And we would just like to see that similar tracking as is currently in place through the Department of Public Health statutes.

So we do trust the mechanism that is in place. We just want to insure that this mechanism applies to healthcare professionals that would come under the bill as well. That is all the Commission is saying.

REP. MALONE: Is it the charge of the Freedom of Information Commission to impose the Freedom of

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Information regulations or statutes, if you will, on the confidentiality that is afforded individuals who seek treatment?

Because the basis for this bill is that mentality that was one strike and you are out. And now are you telling me that the Freedom of Information Commission wants to have the Freedom of Information statutes and regulations apply here.

HANK PAWLOWSKI: Only in regards to the way that currently applied to the Department of Public Health in regards to physicians. Simply parallel that language.

So once these individual assistance groups, whoever they are for, the issue then moves over to the Department of Public Health.

We want to make sure that the current confidentiality provisions that track the physicians, also track these groups as well.

So Freedom of Information is not saying anything about what is going on with the individual peer assistance groups.

But once it becomes a public record, whether confidential or not, with the Department of Public Health, the Commission is weighing in as to how those should be treated.

And the sections that I referenced were negotiated in the past with the Department of Public Health and the Freedom of Information

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Commission and a previous Executive Director, Mitchell Pearlman.

And we just want to see that expansion of this type of program parallels what is currently existing in statute and we do not see that in the bill as currently drafted. We just want to encourage it to be looked at.

So those provisions attach as have been agreed upon with the physicians' problems. Not that it is the Commission's job to weigh in on the bill, but we support the idea behind the bill.

We understand the need for confidentiality. We just are concerned about an indefinite type of situation that currently does not exist in statute regarding the physicians.

REP. MALONE: Another element has appeared here. And that is, it has been 10 years or 12 years to try to get the bill passed. We have not been able to do so in that period of time.

We had a remarkably good run at it last year and had pass the House of Representatives. And the Freedom of Information Commission did not come here.

And then it was only at the insistence of the Department of Public Health, that they had a second bite at the apple, if you will. And made changes to the bill that was passed last year, which is not what we do around here.

And now, the Freedom of Information Commission. Be it whatever it is that you want to do, or

whatever you see is your [Gap in testimony.
Changing from Tape 4A to Tape 4B.]

--on and weigh in and pass the bill. This is not a question, Madam Chairwoman. And I cannot even think of a question. So I am going to stop talking. Thank you.

REP. SAYERS: Thank you, Representative Malone. However, I think that in the questions you asked, it has really raised some concerns for me in that what he is asking for is that the doctors not be given the same confidentiality treatment that anybody else in this state has if they have a substance abuse problem. And I am very, very concerned about that.

HANK PAWLOWSKI: If I may, Representative Sayers, that is not what I am saying. All that we are saying is that there is currently in statute mechanism through the statutes that I cited.

Because physicians are currently the only group, I understand that is afforded this type of program with their peers, the Connecticut State Medical Society.

However, it works with ultimately the Department of Public Health Oversight. All that we are asking is that as this idea has expanded. And the Commission feels properly so.

To allow for those in these professions to seek help confidentially, that eventually the same provisions, that when the Department of Public Health feels that a physician is either not

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following the agreed upon plan of treatment. Or in some other way represents a person who should not be practicing.

That that information then, the confidentiality eventually is removed in the interest of protecting the public on a non-compliant physician. That is the law as it currently stands regarding physicians.

We are just asking that there be some similar mechanism in regards to these other healthcare providers. To eventually allow for a noncompliant, or in the Department of Public Health's view, a person who should not be practicing their profession.

That there is an opportunity for some sort of public inability to get that information to protect the public when making their decisions on their healthcare provider. So we are just asking that a parallel, what is currently in statute regarding the physicians.

REP. SAYERS: Actually, Sir, I think you are mistaken in your interpretation of it. I think that that protection still remains in this bill. But I think we are not going to resolve it right now, as part of this discussion.

So thank you for your testimony. And if there are no other questions, I would call on Dr. Arnold Goldman, followed by Mr. Ken Ferrucci.

KEN FERRUCCI: Good afternoon, Representative Sayers and Members of the Public Health Committee. My name is Ken Ferrucci. I am the Director of

Government Relations for the Connecticut State Medical Society.

In light of the questions that were just asked, and we feel that were not answered accurately or with the true information as far as what this bill will accomplish, I want to bring up with me Attorney Maureen Dinnan, who I think can shed some light on what the previous speakers was, I think, attempting to say.

MAUREEN DINNAN: I think the previous speaker, as Representative Sayers prudently pointed out, I do not think he had carefully read all the provisions of the bill.

Repeatedly throughout this bill there are mechanisms or triggers where a person who is in the program will lose their confidentiality.

And I will give you the primary example. And this was one that was discussed before this Committee last year. And that is in Section 1, subsection I.

And that is, if it is determined that the participant poses a threat to the health or safety of any patient, and they refuse to refrain from practice, or they refuse to participate in the program of rehabilitation.

Or one of the ways that the Department changed that language in the revised language, if they fail to comply with any of the terms or conditions of their rehabilitation program.

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They are referred to the Department of Public Health. That tracks exactly what happens now. Because then the language of this bill clearly states the Department then reviews all of their records and determines whether or not they are entitled to continued confidentiality.

Or whether or not they will be subject public disciplinary action. I believe that there is just no basis for the comments from the prior speaker.

And certainly, if he wants to speak with us individually afterwards, I would be happy to. And if you have any further questions I would be happy to answer them.

REP. SAYERS: Thank you. Any questions from Members of the Committee? I see none. Thank you very much for that clarification.

Dr. Arnold Goldman? We'll move on to House Bill 7366. The first speaker is Jean Highland followed by Deb Poerio.

JEAN HIGHLAND: Good afternoon, Representative Sayers and Members of the Public Health Committee. My name is Jean Highland. I am the Director of School Health Services for the Community Health Center, Inc.

I am here today to support the Raised House Bill 7366, AN ACT CONCERNING SCHOOL BASED HEALTH CLINICS AND COMMUNITY BASED HEALTH CENTERS.

These marketing efforts do influence behavior. And in an analysis of several studies, drug company marketing efforts were strongly associated with changes in prescribing patterns and requests to include particular medicines on formularies.

We believe that drug detailing contributes to negative impacts on healthcare access and quality in Connecticut.

First, increasing public and private sector expenditures on prescription drugs. Drug detailers through their gift giving and financial incentives promote newer brand name drugs which are often more expensive than existing alternatives.

And second, we believe gifts to doctors undermine the doctor-patient relationship by creating the appearance of impropriety.

So we believe that the proposed gift disclosure law would shine badly needed light on the extent of drug company marketing in the state of Connecticut and we believe it is very much in the interest of Connecticut consumers. Thank you.

REP. SAYERS: Thank you. Questions? Seeing none. The next speaker is Jean Rexford followed by Anita Schepker.

JEAN REXFORD: Hi. I am Jean Rexford, Executive Director of the Connecticut Center for Patient Safety. You are an amazing group of people.

SB1189
HB7155

Representative Sayers, thank you. I am happy to be here. I listened to Kevin Lembo this morning and the questions you all asked and also to the Attorney General.

And I think the whole purpose is, why would pharmaceuticals spent the \$12 billion to \$18 billion a year on marketing to doctors unless it worked?

As I have gotten into this, you have my testimony. So I am not going to read it. But as I have gotten into it, the thing that amazed me was, how many more drugs are on the market and how many more drugs each health consumer takes.

The average 65-year-old now takes four prescription drugs. The average 75-year-old takes eight prescription drugs. In the last ten years, we have had an enormous increase of proliferation of drugs that are available to the public.

If we got home tonight at 6:30 and were to watch the evening news, you would see on Channel 2, 4 and 7, advertisement after advertisement on a drug.

That is only 10% of the marketing dollar that the pharmaceutical companies use. And I know, Representative Sayers, you think your doctor is not going to be influenced. And I do not think he would and I do not think mine is.

But they have got to be spending this kind of money for some purpose. I have five physicians

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in my family. They have told me that the gift giving starts in medical school.

One of my sisters, who is head of radiology for Cincinnati, skis in Utah. She becomes a panelist for something that is being put on. This is big time money.

And with the healthcare dollar that seems to be shrinking for all of us, I am just stunned. We are not limiting the lunches. And in fact, if you all did not think \$25 was enough for lunch, let us do a little bit more.

But what we are asking is that the pharmaceutical industry report its gifts to the public. So that we know how much they are giving. It is reported and estimated that there is between \$8-10,000 per physician in this state.

And the other thing is, there is one sales rep for every 4.9 physicians. I just briefly want to say when Oxycontin was put on the market, the detailers, the drug reps were told how not to answer questions.

This is shady. This is not what the health consumer needs. Nor does the doctor need this. So I am hoping this legislation will bring some integrity to the process.

And briefly, I want to say that I have problems with House Bill 7155 on impaired physicians. I think we need funding. I think we need stronger contractual agreements and I think we

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need a consumer representative to sit on that oversight committee. Thank you very much.

REP. SAYERS: Thank you. Any questions? Seeing none. The good news is, thanks to those F4 drugs, at 65 we are living to a ripe old age. And it is keeping us a lot healthier. So thank you very much.

ANITA SCHEPKER: Good afternoon, Representative Sayers and Members of the Public Health Committee.

My name is Anita Schepker. And for the record today, I am here as counsel representing the Pharmaceutical Researchers and Manufacturers of America. And I am here to testify in opposition to Senate Bill 1189.

You have my written remarks. And I am not going to spend time going through that. But some of the members have asked me a couple of questions.

I would like to highlight them. Many of you have asked about the hand out that you have received about the Office of Inspector General and the requirements on pharmaceutical industries to prepare and give data to the federal government.

The Office of the Inspector General requires that every company must have written policies and procedures in place about how their sales representatives interact with healthcare professionals.

JOINT
STANDING
COMMITTEE
HEARINGS

PUBLIC HEALTH

PART 12
3611-3923

2007

TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
PUBLIC HEALTH COMMITTEE
Wednesday, March 14, 2007

**HB 7155, An Act Concerning A Professional Assistance Program For
Health Care Professionals**

The Connecticut Hospital Association (CHA) appreciates the opportunity to submit testimony in support of **HB 7155, An Act Concerning A Professional Assistance Program For Healthcare Professionals.**

This bill would facilitate the establishment of programs to provide prevention, intervention, referral assistance, and rehabilitation or support services to healthcare professionals with a chemical dependency, emotional or behavioral disorder, or physical or psychological illness. Connecticut is fortunate to have talented and qualified healthcare professionals who desire to care for patients, but healthcare professionals, like anyone else, are not immune from the effects of alcoholism, drug dependency, or physical or psychological illness.

The healthcare professional assistance program outlined in this proposed legislation would provide a private and confidential opportunity for medical professionals in the state to obtain needed rehabilitation services. Patient safety is enhanced when a healthcare professional at risk for impairment can receive early intervention and assistance, before an impairment impacts patient care. HB 7155 would enable professional societies to make this type of program available to healthcare professionals in the state who may not have the opportunity to obtain this help from other sources in a confidential manner, without fear of sanction or reprisal. Such a program would protect the safety of Connecticut's patients by not only providing treatment for at risk professionals, but also reducing the risk of relapse through the structured monitoring of rehabilitating individuals.

Thank you for your consideration of our position.

For additional information, contact CHA Government Relations at (203) 294-7310.



160 St. Ronan Street, New Haven, CT 06511-2390 (203) 865-0587 FAX (203) 865-4997

Testimony for H.B. No. 7155
An Act Concerning a Professional Assistance Program for Health Care
Professionals

Medical Director, Al Herzog, MD.
Medical Director, Professional Programs, The Institute of Living

The Honorable Co-Chairs State Senator Mary Ann Hanley and State Representative Peggy Sayers and members of the Public Health Committee:

My name is Al Herzog, MD. I come before you today to speak in strong support of H.B. No. 7155, an act concerning a Professional Assistance Program for Health Care Professionals.

I come before you today with several hats: As Chairman of the State Medical Society's Committee on Physicians Health, also as a Co-Chair of its Legislative Committee, as Medical Director of the Institute of Living's Professional Intensive Outpatient Treatment Program, as a physician who donates time to the Department of Health in the investigation of health care professionals with potential problems and finally, as a psychiatrist who treats health care professionals in need of help for the past 30-plus years.

We, by that I mean, members of the Department of Public Health and a Collaborative of Healthcare Professionals, have worked hard "behind the scenes" to come up with a bill which balances the needs of public safety with individual practitioner confidentiality. In this bill as presently written, the Department of Public Health has sufficient guarantee for public accountability and the practitioner is assured of sufficient confidentiality to make the program successful. Without such a guarantee, we could not have a program. I want to express my particular thanks to Dr. Galvin and his senior staff for working with us to achieve these important accommodations.

I ask you to give your strong support for H.B. No. 7155, both here and, I hope, in both the House and Senate. Should H.B. No. 7155 become law, Connecticut will have a Professional Assistance Program that I know other states across this country will want to copy and one of which all of us will be proud!

Thank you for your attention.

**FREEDOM OF INFORMATION COMMISSION
STATEMENT ON HB 7155
AN ACT CONCERNING A PROFESSIONAL ASSISTANCE
PROGRAM FOR HEALTH CARE PROFESSIONALS**

This legislation authorizes professional societies and organizations to establish programs for the treatment of impaired health care professionals. The assistance programs created would be monitored by the Department of Public Health but would enjoy strong confidentiality provisions.

The Freedom of Information Commission understands the need for confidentiality in the early stages of these difficult situations to encourage those health care professionals who need help to seek it.

The Commission, however, is concerned that the legislation as proposed seeks to keep this information confidential by assistance programs and the Department of Public Health indefinitely. The Department of Public Health in its sole discretion would decide if any of this information becomes available for public inspection.

The Commission would ask the General Assembly to consider clarifying the language in the legislation to set clear guidelines, similar to those set forth in §20-13e and §19a-14(d), as to when this confidential information would be available to the public. The privacy of these impaired health care professionals must be properly balanced with the right of the public to be informed when making decisions about their healthcare providers.

Contact: Colleen M. Murphy, Executive Director and General Counsel, Eric V. Turner, Managing Director and Associate General Counsel, or Hank Pawlowski, Legislative Liaison. 860.566.5682 or foi@ct.gov

March 14, 2007

Testimony for Revised H.B. 7155:

A Professional Assistance Program for Health Care Professionals
Patricia Holloran RN, Chair, Recovering Nurse Community of CT

The part of the Professional Assistance Program that I would like to address is the early recognition, intervention and facilitation into treatment for impaired professionals, and the education about how to recognize impairment in a colleague or themselves.

Every week, in our Nurses for Nurses meetings, nurses report that they knew very little, if anything, about addiction and could not even define recovery before they were facing their own. Education about addiction in general, and the particular characteristics about addiction within the health professions is sorely needed. It is the accepted norm within much of healthcare to treat addiction through the funnel of attitude. When it is one of our own, we usually judge and ignore; or when we do want to help, we don't know how; and more frightening, neither do many of our superiors or officials that we turn to for direction, or resolution. The most vulnerable time is when the Health Care worker is discovered to be impaired, and is confronted. This program will educate Health Care Professionals how to recognize and safely and correctly intervene to save the health, career, and life of one of our own, and by doing this, protecting the health care consumer in CT.

I recently came across a British study that reveals that over the last ten years the suicide rate for female nurses is four times higher than that of women in general—0.11 deaths per thousand in nurses as opposed to 0.03 deaths per thousand in women in general. Remember, 90% of all nurses are female.

Doctors are twice as likely to kill themselves compared with people working in other professions. The suicide rate for doctors over the past 10 years has been 0.135 deaths per 1,000, which is almost twice the national average. Overwork, stress and easy access to drugs are being blamed for high suicide rates within medicine.

"These shocking figures show that being a doctor or nurse carries a unique risk of suicide," the article states. "Doctors are working in an inherently stressful job. They work very long hours in difficult circumstances and the work itself is extremely taxing..." It is also the case that doctors have a reluctance to seek professional help and have a professional work ethic which means they feel they have to struggle on and keep working even when ill, sometimes with tragic results." We can apply this to all who work in healthcare. We can only wonder how much of the attitude and the perceived reactions of peers upon discovery of one addicted or mentally ill, contributes to the progression to dangerous or even fatal signs and symptoms.

This all just underscores the need to have the vehicle of the Professional Assistance Program for Healthcare Professionals to recognize and then intervene in a therapeutic, confidential and compassionate manner as a start to therapeutic, confidential, yet defined and firm monitoring of recovery and practice.

Very Truly Yours..


Patricia Holloran RN

Testimony of Angelo Carrabba, MD
President, Connecticut State Medical Society
In support of revised HB 7155,
An Act Concerning a Health Care Providers Health Program
Public Health Committee
March 14, 2007

Senator Handley, Representative Sayers and members of the Public Health Committee I am Angelo Carrabba, MD, president of the Connecticut State Medical Society. On behalf of our 7,000 physician and medical student members, as well as the Coalition of Health Care Professionals, I thank you for the opportunity to present this testimony to you today in support of House Bill 7155 An Act Concerning a Professional Assistance Program for Health care Professionals. We support the revised language that has been submitted by the Commissioner of the Department of Public Health (DPH) for House Bill 7155. A copy of the revised language is attached.

Our Coalition worked with DPH to make what was a good bill better. I am submitting with this written testimony, the written testimony of counsel for the State Medical Society which addresses salient points of the revised language. This Bill creates a single health care professional assistance program to help physicians, dentists, nurses, physician assistants, veterinarians, and other health care professionals who have, or who are at risk of having, impairment due to substance abuse, emotional disorder or mental illness, behavioral concerns or physical illness. There are three keys to the success of this program and which make it an effective alternative to public discipline: clear parameters for eligibility, confidentiality and accountability.

The need for such a program in this state is overwhelming. Our fear is that Health care professionals currently are not seeking treatment they need for fear of losing their reputations, licenses and jobs. This program improves the likelihood that intervention will occur, professionals will obtain the help they need, and patients will continue to receive the quality of care they deserve. In addition, by having one statewide program, the standard of care for intervention will be uniform and consistent.

This bill promotes education, intervention, monitoring and accountability. Through education, the assistance program will increase the likelihood that more of our health care professionals who may be suffering from one of these serious illnesses will be identified or seek help at an earlier time in the disease process, receive early intervention, and with support and monitoring be less likely to lapse. Although health care professionals are vulnerable to chemical dependency at the same rate as the general population, health care professionals' success in recovery is far greater than that of the general population. This has been supported in multiple studies published in the Journal of the American Medical Association.

In addition to being the President of the CSMS, I have been the President of the Medical Dental Staff at St. Francis Hospital and Medical Center for 2 years. As a hospital administrator, I have witnessed the need for a single, statewide, confidential and

alternative to discipline program that would allow for all licensed health care professionals to apply for rehabilitation. As you have witnessed through recent public testimony, trends in medicine are focusing on a team-centered approach, where physicians, nurses, physicians assistants and others may care for one patient. The health of every member of the team is essential to delivery of quality health care to our patients. Each member of the team deserves the dignity and respect a confidential rehabilitation program provides, while ensuring that patient safety is paramount.

Patient safety is ensured by providing criteria for eligibility, development of individual rehabilitation plans, periodic reviews and monitoring. If a professional does not agree to the terms and conditions of the plan developed with a medical review committee under this bill, or does not comply with the terms and conditions of such plan, a referral must be made to the Department for investigation and appropriate action. This joint relationship with the Department becomes a strong incentive for compliance and recovery.

Accountability is repeatedly stressed throughout this bill. Medical Review Committees will ensure standards are met for evaluation, intervention and support for each health care professional. A qualified oversight committee will ensure quality assurance, not only for each professional, but also of the program-at-large. Finally, an annual audit is provided to further ensure that the requirements of this bill are being met.

One in 10 professionals will suffer from addiction over the course of his or her career. These professionals care for our loved ones. However, no confidential programs currently exist to assist all members of the health care team and especially nurses, dentists, veterinarians and other health care professionals. The punitive nature of the current system makes peers reluctant to refer their colleagues for help. H.B. 7155 as revised affords a confidential avenue for treatment that will encourage peer identification, crisis intervention, referral assistance, and support services which are essential to improving the delivery of health care in Connecticut.

On behalf of CSMS, I ask that you support Bill 7155 with the revisions submitted by the Department and Coalition.

HB 7155

Connecticut State Medical Society
Testimony in Support of Raised Bill No. 7715 with proposed revisions
An Act Concerning a Professional Assistance Program for Health Care
Professionals

Senator Handley, Representative Sayers, Senator Slossberg, Representative Malone and Members of the Public Health Committee:

My name is Maureen Sullivan Dinnan and I am here on behalf of the Connecticut Medical Society to request your support of Raised Bill No. 7715, An Act Concerning Professional Assistance Programs for Health Care Professionals, with revised language submitted by the Department of Public Health and Coalition of Health Care Professionals, of which CSMS is a member. For the past three years, I have been counsel to the Physician Health Program of CSMS, and for the past two years have worked with the Coalition on behalf of CSMS.

The Connecticut State Medical Society strongly supports legislation to enable the establishment of a Health Care Professional Assistance Program as an alternative and confidential opportunity for rehabilitation for all members of the health care team. This Bill recognizes the serious need in Connecticut for effective services, while making patient safety the top priority.

As you are aware, a similar bill was introduced last session. In this past year, we have worked to make that bill even better. To be an effective confidential assistance program, the program will need to work with the state regulators. To this end, we have worked with the Department of Public Health to develop a strong program and clear policy for our state. A copy of the proposed revised language is attached.

The key provisions to this Bill with revised language are:

- Establishment of one single assistance program for health care professionals. By having one program, consistency of administration as well as intervention and monitoring is enhanced. To accomplish this end, language was clarified in Section 1(b). Further, the definition of medical review committee as set forth in the Raised Bill is unworkable for the administration of one statewide program as it limited medical review committees to those described in section 19a-17b. Some health care professionals do not qualify under 19a-17b, therefore, the definition was revised. Finally, in order to have one

program, existing Conn. Gen. Stat. Sec. 20-13e needs to be revised to be consistent with this new bill. The proposed revision to Conn. Gen. Stat. Sec. 20-13e agreed upon by CSMS and the Department is attached. You will note that it allows for physicians who are currently in a confidential program to continue in the confidential agreement as well as recognizes that the department may not run a separate program.

- (2) The bill with the revised language restores the confidentiality language which was agreed upon last session with insight from the department and the Connecticut Trial Lawyer's Association. You will note Section 1(h)(1) is modeled after the Lawyers Assistance Program, Conn. Gen. Stat. Sec. 51-81d(f). Section 1(h)(2) was modeled after state and federal laws. It is essential that no member of a medical review committee or the oversight committee be subject to discovery or testimony in any civil action. This section specifically addresses concerns raised by the trial lawyers. Records generated independent of the assistance program process may not be precluded; testimony regarding knowledge acquired independent of the process may not be precluded; in a medical malpractice case where a patient has alleged harm by a health care professional, the fact that at the time the alleged harm occurred, the professional was requested to refrain from practice or their practice was restricted will not be precluded. Finally, the fact that a health care professional participates in the program, the dates and reason for participation and confirmation of successful completion may only be disclosed after the opportunity for a hearing by the court with a determination of good cause and appropriate safeguards for further disclosure. Section 1(h)(3) provides for the use of records of a health care professional who must be referred to the department under other provisions of the bill where disciplinary action has been deemed warranted.
- (3) Accountability is ensured not only through the medical review committee and mandatory periodic reviews, as well as the oversight committee and annual audit as provided for in the current bill, but also accountability is enhanced through a mechanism for remedial action if appropriate. Under Section 2(e) of the revised language, if the oversight committee determines that the program has not acted in accordance with the provisions of the Act or remedial action is required based on the audit, the oversight committee must give notice to the program. Within 30 days of receipt of the notice, the program shall develop and submit a corrective action plan to the oversight

committee. The language of the bill encourages the program and the oversight committee to work together in developing the corrective action plan. Upon the oversight committee's approval of the plan, the plan is submitted to the program and the department. If the corrective action plan is not met, the oversight committee may amend the plan or refer some or all of the program records to the department. The referral does not automatically jeopardize confidentiality, but enables the department to determine continued eligibility for confidential treatment. Upon successful completion of the corrective action plan, records and professionals may be returned to the program. This provision benefits the program, the oversight committee, the regulators and the public.

The existing means for rehabilitation in Connecticut is based on punitive sanctions. Yet, there is no data to support punishment as an effective deterrent. Nurses, physician assistants, dentists, veterinarians and other health care professionals do not have employee assistance programs to turn to for help or for a confidential alternative to public sanction. Identification of impairment or suspected impairment means an investigation by the Department and public action by the respective board or commission. This also means personal information regarding mental health or substance abuse is now available on the internet.

Finally, this Bill does not diminish or reduce the Department's independent powers to investigate individuals. If a professional refuses to accept program recommendations or is not compliant with the rehabilitation program, the program will refer the individual to the Department for appropriate investigation and action.

Raised Bill 7155 with revised language submitted by the Coalition and the Department makes an important public policy statement. The State of Connecticut recognizes that education, prevention and intervention before patient harm occurs is the goal of this state. Rehabilitation before harm is more effective in protecting public safety than discipline. Indeed, too often, discipline is too little and too late.

For these reasons, we ask that you support Raised Bill 7155 with revised language as submitted by the Department of Public Health and the Coalition.



General Assembly
January Session, 2007

Raised Bill No. 7155

LCO No. 3988

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Referred to Committee on Public Health

Introduced by:

(PH)

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

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

Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

- (1) "Chemical dependency" means abusive or excessive use of drugs, including alcohol, narcotics or chemicals, that results in physical or psychological dependence;
 - (2) "Department" means the Department of Public Health;
 - (3) "Health care professionals" includes any person licensed 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 of the general statutes;
 - (4) "Medical review committee" means any committee described in section 19a-17b of the general statutes that reviews and monitors participation by health care professionals in assistance programs; and
 - (5) "Assistance program" means a program established by a state or local professional society or membership organization of health care professionals 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) A state or local professional society or membership organization of health care professionals or any combination thereof, may establish a health care professional assistance program, provided the assistance program (1) operates in compliance with the provisions of

this section, and (2) includes a medical review committee that complies 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 an assistance program established pursuant to subsection (b) of this section, 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 construed as the practice of medicine or mental health care.

(d) The medical review committee shall not refer to an assistance program established pursuant to subsection (b) of this section 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. The 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 review committee or the assistance program, or both, concerning such health care professional. Upon such referral, the department shall determine if the health care professional is eligible to participate in an 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 assistance programs in determining what intervention, referral assistance, rehabilitation or support services are appropriate for such health care professional.

(e) Any health care professional participating in an assistance program established pursuant to subsection (b) of this section 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 has 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) of this section. The department may seek the advice of professional health care

societies or organizations and assistance programs in determining what intervention, referral assistance, rehabilitation or support services are appropriate for such health care professional.

(f) The medical review committee shall not refer to the program established pursuant to subsection (b) of this section any health care professional who is alleged to have harmed a patient. Upon being made aware of such allegation of harm the 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 review committee or the assistance program, or both, 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 an 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 assistance programs in determining what intervention, referral assistance, rehabilitation or support services are appropriate for such health care professional.

(g) Each assistance program established pursuant to subsection (b) of this section 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, 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 section 11-4a of the general statutes.

(h) (1) All information given or received in connection with any intervention, rehabilitation, referral assistance or support services provided by an 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 maintained by the assistance program in a file which shall be kept confidential and shall only be disclosed in accordance with this subsection. Such information may be disclosed: (A) To a person or entity employed by the assistance program, provided such disclosure is necessary for purposes of such program; (B) to another person or entity if the assistance program determines that disclosure is necessary in order to accomplish the purposes of such intervention, rehabilitation, referral assistance or support services; (C) in a civil or criminal case or other legal or administrative proceeding, in accordance with subdivision (2) of this subsection or subsection (f) of section 2 of this act or if the health care professional seeking or obtaining intervention, rehabilitation, referral assistance or support services authorizes such disclosure or; (D) in connection with administrative proceedings related to the imposition of disciplinary action against any health care professional referred to the department by an assistance program pursuant to subsection (d), (e), (f) or (i) of this section; (E) for purposes of an audit in accordance with subsection (l) of this section; or (F) if disclosure is otherwise required by law.

(2) The proceedings of a medical review committee established pursuant to this section 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 evaluation 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 of the fact that a health care professional participated in an 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.

(i) If at any time, (1) an assistance program established pursuant to subsection (b) of this section, 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 an assistance program fails or refuses to participate in the assistance 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.

(j) (1) Any physician, hospital or state or local professional society or organization of health care professionals that refers an individual for intervention to an assistance program for physicians established pursuant to subsection (b) of this section shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-13d of the general statutes, 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 an individual for intervention to an assistance program for physician assistants established pursuant to subsection (b) of this section shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-12e of the general statutes, 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) Each assistance program established pursuant to subsection (b) of this section shall meet with the professional assistance oversight committee established under section 2 of this act on a regular basis, but not less than four times each year.

(l) On or before November 1, 2007, and annually thereafter, each assistance program established pursuant to subsection (b) of this section 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. On or after November 1, 2011, the department, with the agreement of the professional assistance oversight committee established under section 2 of this act, 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 the 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 professional assistance oversight committee established under section 2 of this act 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 of the general statutes.

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

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

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

(d) The oversight committee may request and shall be entitled to receive copies of files or such

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other assistance program records it deems necessary, provided all information pertaining to the identity of any health care professional shall first be redacted by the assistance program. No member of the oversight committee may copy, retain or maintain any such redacted records. If the oversight committee 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 has not refrained from practicing health care or has failed to participate in a recommended program of rehabilitation, the oversight committee shall notify the assistance program to refer the health care professional to the department. Upon such notification, the assistance program shall refer the health care professional to the department, in accordance with the provisions of subsection (i) of section 1 of this act.

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

(f) The proceedings of the oversight 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 evaluation 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 (1) in any civil action, the use of any writing recorded independently of such proceedings; (2) 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; (3) 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 (4) in any civil action against a health care professional, disclosure of the fact that a health care professional participated in an 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 (A) notification to the health care professional of the request for such disclosure, and (B) 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.

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

Statement of Purpose:

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

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

March 14, 2007

Dear Sen. Slossberg, Sen. Handley, and Members of the Public Health Committee,

I am Dede Dwyer; a registered nurse for nearly 27 years, a member of the recovering nurse community of Connecticut and Nurses for Nurses; an anonymous peer support group for nurses in recovery for the last 9 years.

I am here today to testify in support of revised RB 7155 *AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTH CARE PROFESSIONALS*. (See attached language)

This legislation captures the key elements of a true alternative to discipline program. Based on scientific research and best practices, alternative programs afford immediate intervention assisting professionals in obtaining a full assessment of their needs, the appropriate level of care (treatment), confidentiality, relapse prevention and education.

Confidentiality; an integral component of any program dealing with the issues of substance abuse and mental illness, not only safeguards the dignity of the individual but it allows the person to concentrate on what needs to be done. Which means full engagement in treatment and subsequent recovery, more specifically, confidentiality eliminates one of the major barriers facing impaired health care practitioners today.

Through this program, education and prevention will be conducted statewide and be consistent in its content; therefore health care facility staff will fully understand the need for early intervention, appropriate treatment and on-going support. This will subsequently enable their colleagues to return to practice with skill and safety in their respective professional settings.

A case management system administered by skilled mental health and addictions specialists will conduct the close monitoring and relapse prevention components, establishing an environment of consistency, offering dedicated on-going support for those engaged in the program.

Likewise, this legislation calls for several levels of accountability which will truly preserve patient safety as well as the overall integrity of the health care team of physician, nurse and patient.

The entities that have collaborated on this legislation have worked long and hard to bring about a positive move forward for all health care practitioners who are or may be impaired by chemical dependency, physical or mental illness.

By doing the "right thing for the right reasons" they have afforded the same dignity, confidentiality, and respect extended to any patient regardless of their disease entity.

Thank you for this opportunity to address the Committee, I respectfully submit this testimony in support of the revised language for raised bill 7155.

Denice B. Dwyer, RNC-E
Denice B. Dwyer, RNC-E
(Dede Dwyer)

3 Fairwood Rd
Bethany, CT 06524
860-918-4079

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AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTH CARE PROFESSIONALS

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

Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

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

(2) "Department" means the Department of Public Health;

(3) "Health care professionals" includes any person licensed or who has received 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 of the general statutes;

(4) "Medical review committee" means any committee that reviews and monitors participation by health care professionals in the assistance program including medical review committees described in section 19a-17b of the general statutes;

(5) "Assistance program" means the program established pursuant to subsection 1(b) 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 identified in subsection 1(a)(3), 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 established pursuant to subsection (b) of this section, a medical review

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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 construed as the practice of medicine or mental health care.

(d) The medical review committee shall not admit to the assistance program established pursuant to subsection (b) of this section 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. The 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, during the health care professional's participation in and upon successful completion of the program, in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(e) Any health care professional participating in the assistance program established pursuant to subsection (b) of this section 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 has 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) 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, during the health care professional's participation and upon successful completion of the program in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(f) The medical review committee shall not admit to the program established pursuant to subsection (b) of this section any health care professional who is alleged to have harmed a patient. Upon being made aware of such allegation of harm the 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[s] 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, during the health care professional's participation in and upon successful completion of the program in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(g) The assistance program established pursuant to subsection (b) of this section 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, 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 section 11-4a of the general statutes.

(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 to any third person or entity, unless disclosure is reasonably necessary for the accomplishment of the purposes of such intervention, referral assistance or support services or for the accomplishment of an audit in accordance with subsection (l) of this section and shall not be disclosed in any civil or criminal case or proceeding or in any legal or administrative proceeding, unless the health care professional seeking or obtaining intervention, referral assistance or support services waives such privilege or unless disclosure is otherwise required by law. Unless the privilege under this subsection has been waived or unless 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 and referral 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 evaluation 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 of 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

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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 oversight committee pursuant to (2)(e) of this section.

(i) If at any time, (1) the assistance program established pursuant to subsection (b) of this section, 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 participation in the program or refuses to participate in the assistance 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[s] 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, during the health care professional's participation in and upon successful completion of the program in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

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

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imposed on the person or organization pursuant to subsection (a) of section 20-13d of the general statutes, 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 an individual for intervention to the assistance program for physician assistants established pursuant to subsection (b) of this section shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-12e of the general statutes, 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 2 of this act on a regular basis, but not less than four times each year.

(l) On or before November 1, 2007, and annually thereafter, the assistance program established pursuant to subsection (b) of this section 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 section 2 of this act, 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 the 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 2 of this act and the joint standing committee of the General

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Assembly having cognizance of matters relating to public health, in accordance with the provisions of section 11-4a of the general statutes.

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

(b) The assistance program established pursuant to section 1 of this act shall provide administrative support to the oversight committee.

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

(d) The oversight committee may request and shall be entitled to receive copies of files or such other assistance program records it deems necessary, provided all information pertaining to the identity of any health care professional shall first be redacted by the assistance program. No member of the oversight committee may copy, retain or maintain any such redacted records. If the oversight committee 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 has not refrained from practicing health care or has failed to comply with terms or conditions of participation in the program of rehabilitation, the oversight committee shall notify the assistance program to refer the health care professional to the department. Upon such notification, the assistance program shall refer the health care professional to the department, in accordance with the provisions of subsection (i) of section 1 of this act.

(e) If, at any time, the oversight committee determines that the assistance program has not acted in accordance with the provisions of this Act, or requires remedial action based upon the audit performed under subsection 1(l), the oversight committee shall give thirty days written notice to the assistance program. The assistance program shall develop and submit to the oversight committee a corrective action plan within thirty days of the issuance of said

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notice. The assistance program may seek the advice and assistance of the oversight committee in developing the corrective action plan. Upon approval of the corrective action plan, the oversight committee shall provide a copy of the approved plan to the assistance program and the department. If the assistance program fails to satisfy the corrective action plan, the oversight committee may amend the plan or direct the assistance program to refer some or all of the records of the health care professionals in the assistance program to the department. Upon such referral, the department shall determine if the health care professionals are eligible for continued intervention, referral assistance or support services and whether participation in such intervention, referral assistance or support services should be treated as confidential in accordance with subsection 1(h). If the department determines that the health care professional is an appropriate candidate for confidential participation in continued intervention, referral assistance or support services and the health care professional agrees to participate in accordance with terms agreed upon by the department and the health care professional, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open. At such time as the oversight committee determines that the assistance program is in compliance with the corrective action plan and the oversight committee gives written notice to the department, the department may refer the health care professionals to the assistance program for continued intervention, referral assistance or support services and shall submit to the assistance program all records and files concerning those health care professionals.

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

(g) The proceedings of the oversight 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 evaluation 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 (1) in any civil action, the use of any writing recorded independently of such proceedings; (2) 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; (3) 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

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care was restricted, the disclosure of such request to refrain from practicing or such restriction; or (4) in any civil action against a health care professional, disclosure of 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 (A) notification to the health care professional of the request for such disclosure, and (B) 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.

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

Statement of Purpose:

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

Proposed additions are indicated by underline.



**Connecticut Academy of
Physician Assistants**

Public Health Committee

Testimony RE; HB 7155, AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTHCARE PROFESSIONALS,

March 14, 2007

The Connecticut Academy of Physician Assistants (ConnAPA) requests that the Public Health Committee move favorably for HB 7155, AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTHCARE PROFESSIONALS, substituting the revised language that has been agreed upon by the Department of Public Health and the Coalition.

Physician Assistants, like other healthcare practitioners in the state of Connecticut, currently do not have access to a confidential referral process for impaired practitioners. As a result, practitioners are hesitant to seek intervention for referral or treatment. This compromises patient safety, as well as the overall integrity of the healthcare team.

The proposed bill, supported by a large coalition of diverse practitioners, makes prevention, intervention, referral assistance, and support services available to healthcare practitioners across many disciplines. Combining resources and knowledge into one unified program is practical, efficient, and cost-effective.

There are safety nets and ongoing monitoring systems built into the program to ensure that the practitioner is able to practice with skill and safety, with mandatory referral to the Department of Public Health for non-compliance. The Coalition and the Department of Public Health have worked together to ensure that the program will promote, protect, and enhance quality medical care for our patients, as well as promote the health and well being of healthcare practitioners across our state. The physician assistants support the Healthcare Practitioner Assistance Program bill, HB 7155, because it is good for the citizens of Connecticut.

Tricia Marriott, PA-C, MPAS
ConnAPA President-Elect and Legislative Chair



American Society of Addiction Medicine
Connecticut Chapter
P.O. Box 88, Hartford, CT 06141

**Testimony in Support of Revised Raised H. B. 7155
An Act Concerning a Professional Assistance Program
for Health Care Professionals**

Senator Handley, Representative Sayers and members of the Committee on Public Health:

My name is Dr. Ken Freedman, President of the Connecticut Chapter of the American Society of Addiction Medicine (ASAM). For 12 years, I have practiced as an internist and addiction medicine specialist. I currently serve as the Medical Director of Ambulatory Care Services at Connecticut Valley Hospital, and as a member of the Committee on Physician Health of the Hartford County Medical Association.

My colleagues in the CT Chapter of A.S.A.M. and I have been actively involved in the evaluation, treatment, rehabilitation, and monitoring of impaired health care professionals, including physicians. Our organization enthusiastically supports the revised language in Raised H. B. No. 7155.

Over the course of their careers, an estimated 9,000 Connecticut health care professionals will suffer from impairment due to substance abuse, depression and other psychiatric disorders, and/or physical illness. Early intervention and treatment for these impaired health care professionals, who have dedicated themselves to the service of our community, increases the likelihood of successful rehabilitation before public safety is jeopardized. This intervention will more than likely occur within the framework of the confidential and responsible oversight program created by revised Raised H. B. 7155. Professionals will have the opportunity to receive the benefits of the knowledge, support, and skill of their mental health/addiction specialist colleagues within a comprehensive

interdisciplinary approach to their potential impairment. This sharing of resources will lead to well-organized and cost-effective care.

A prerequisite of a professional's confidential participation will be their consistent and ongoing cooperation with the HCPAP.

Accountability is provided for in Section 2 (a-f), by the requirement that the Health Care Professional Assistance Program (HCPAP) have regular meetings with the Department of Public Health (DPH). The DPH would be informed of the number and nature of health care professionals receiving these services, the nature of their treatment, and the scope of supervision under which they are operating.

The current system for impaired physicians does not sufficiently promote appropriate rehabilitation. Many impaired physicians do not get referred to the DPH; many others seek out-of-state treatment. Both of these results lead to insufficient monitoring of these impaired professionals.

Confidentiality is an essential element of a successful program. Only with this guarantee will health care professionals seek the support, treatment, and rehabilitation we can provide. Without the guarantee of privacy, health care professionals will shy away from seeking the help they so desperately need. Through ongoing monitoring, we will be able to ensure that these professionals are practicing with the necessary skill and safety to deliver the high quality of care that our families, friends, and the public deserve.

Thank you for your consideration and your support of the revised language in Raised H. B. 7155.



Ken Freedman, M.D., MBA, FASAM – President, CT Chapter of A.S.A.M.

March 14, 2007



American Society of Addiction Medicine
Connecticut Chapter
P.O. Box 88, Hartford, CT 06141

**Testimony in Support of Revised Language
In Raised H. B. 7155**

**An Act Concerning a Professional Assistance Program
for Health Care Professionals**

Senator Handley, Representative Sayers and Members of the Committee on Public Health:

My name is Dr. Mark Kraus, past president of the Connecticut Chapter of the American Society of Addiction Medicine (ASAM) and currently the chair of Public Policy and Legislative committee. I have recently become an American Society of Addiction Medicine national board member and chair of its Public Policy committee. I also serve as the chair of the Connecticut State Medical Society Committee on Alcohol and Other Drug Dependencies.

My colleagues in the CT Chapter of A.S.A.M. and I have been actively involved in the evaluation, treatment, rehabilitation, and monitoring of impaired health care professionals, including physicians. Our organization stands before you today to support Revised H. B. 7155.

When I was first discussing the concept of a program that would provide for a confidential, alternative to discipline program for health care professionals, my first thought was "It is about time."

I have seen firsthand many nurses, physician assistants, dentists and veterinarians struggling with illness – whether it be substance abuse, mental or physical illness – with no access to an organization that would provide them with the resources to receive a thorough evaluation to diagnose the problem and then enter into a program that would monitor their rehabilitation as well as provide the education needed to help prevent relapse. The revised language of Raised H.B. 7155 provides such a program and allows eligible candidates the confidentiality that encourages health care professionals to access these resources sooner, rather than later. As a practical matter, this means more health care professionals will be proactive about their illness and seek assistance instead of reacting to situations that have already occurred and be mandated to 'get help or face the consequences.'

Patients who come to me in desperation – having hit rock bottom and as a last resort to try to hold onto their license – often state that had there been an opportunity to get the help they needed sooner, they would be in a different situation now.

The revised language in Raised H.B. 7155 provides that opportunity.

As a clinician treating this population, it would be invaluable to have a program that allows an avenue for health care professionals to feel hope for a better life; to not have the additional

worry of recognizing they or their colleagues have a problem, but that to seek help will involve a possible disciplinary action on their license. In these types of situations, it becomes so onerous to 'hold it all together' that once a patient does get caught, there is a sense of relief that the issue is now out in the open and can be dealt with. I want that burden to be lifted at the onset of a problem - the help provided at the beginning of the journey - rather than the desperation of their fingers gripping the ledge and slipping further each day.

While I strongly believe this program is needed and necessary, as a clinician with a responsibility to protecting the public and public safety, I could not support this language without feeling confident that this bill mandates accountability on the part of the health care professional as well as the program. I recognize that every patient will not meet the criteria to participate, and that some will fail to meet the conditions it imposes. The close collaboration with the Department of Public Health will help ensure that those who do participate are monitored in their rehabilitation, maintaining the commitment of the medical community to protect patients from harm at all costs.

I urge you to support the amended language in RHB 7155 and give health care professionals across the state the chance to take their lives back without losing their careers.

Mark Kraus, M.D., FASAM

Connecticut State Medical Society Chair Committee Alcohol and Other Drug Dependencies

March 13, 2006



CONNECTICUT CENTER
FOR PATIENT SAFETY
QUALITY HEALTHCARE IS A RIGHT.

House bill 7155

March 14, 2007

Public Health Committee

Testimony submitted by Jean Rexford, Executive Director

The CT Center for Patient Safety, representing the health care consumer, opposes House Bill 7155 in its current form. We want impaired and addicted health care professionals to get help. Two of our members have family members who are in permanent vegetative states because of an impaired anesthesiologist who had an ongoing problem with drugs. Four children are being raised without their mothers.

The health care consumer needs a seat at the table that has been trying to hammer out a solution to a very serious problem. But we do not want CT to move against a standard that is almost national as 36 states work toward the system endorsed by the Federation of State Medical Boards. Over the last ten years, due in part to the work of Dr Lucian Leape, Harvard School of Public Health, we have a better understanding of the impaired physician. Dr Leape believes that while the environmentally induced problems such as fatigue, stress, isolation and easy access to drugs contribute to dependency for physicians, the over all rate is probably comparable to the public – 10% become addicted. He does note that the rate of suicide is 40 % higher in male physicians and more than two-fold higher in female physicians than in the general population. Yes, we want these people to get help and we want co-workers to intervene. We do not want the public to be at the receiving end of their “care.”

CT Center for Patient Safety would like to see changes in three areas of the proposed bill.

Funding

Contractual agreement

Consumer representation on the oversight committee

1. Funding is absolutely essential for a successful program. Funding in some states is supported by a dedicated portion of the licensing fee. CT could do the same.
2. Without a contract we are a “trust me” state –trusting the program to do the right thing. We need greater accountability and we know that in other states that relied on “trust me”, it did not work and those states moved to contracts. The health

care professional should sign a contract with his society agreeing to a course of action and the society needs to have a contractual agreement with the Department of Health. Let's do it now and keep unsafe practitioners who need to be referred for disciplinary action from harming CT residents.

3. Currently there is no health care consumer represented on the oversight committee. There are many informed and concerned health care consumers who would be an asset to that committee.

Please do not send this legislation out of committee in its present form. Yes to helping addicted health care providers. This legislation does not reflect a standard of care nor professionalism that the CT Center for Patient Safety believes CT residents and the health care consumer deserve.



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**Testimony in Support of Revised Raised H. B. 7155
An Act Concerning a Professional Assistance Program
for Health Care Professionals**

Senator Handley, Representative Sayers and members of the Committee on Public Health:

As representatives of the Connecticut Veterinary Medical Association (CVMA) we support revised Raised Bill 7155. The CVMA, along with its Health Care Professionals Coalition partners and the Department of Public Health, have together developed the language that constitutes Raised Bill 7155 as attached.

This legislation addresses an urgent need and serves a powerful public health purpose by providing a pathway out of the shadows for impaired health professionals. These professionals are those who, though impaired, have until now practiced with appropriate skill and safety and have not in any way yet harmed a patient but remain undiscovered and untreated. They will remain untreated and unknown until and unless they harm a patient, or they voluntarily step forward to accept the only current option, discipline and public reprobation. In most cases, harm and discovery never occurs and the risk to patients continues. This "Catch-22" must be addressed.

In order to provide motivation and a pathway for impaired health professionals to step forward voluntarily, before any harm occurs, it is essential a program of treatment be created, which includes a reasonable protection for the professional while providing verifiable protection for the public. The program embodied in the revised language of Raised Bill 7155 is exactly that.

In developing this legislation as a Coalition we sought to provide assistance for all health professionals licensed in the State of Connecticut. By doing so, we make a powerful statement that while we will not tolerate harm to patients; we also recognize that health professionals suffer from the same human failings as everyone else.

In this recognition, and through this program, we hope to spare any patient the risk of future harm from an impaired professional. In so doing we better protect the public, assist our health professionals out of crisis and create a program that may become a national model. We urge you to vote favorably on the revised language in Raised Bill 7155.

Thank you.

Eva Ceranowicz DVM, President
Larry Nieman DVM, Past President
Arnold L. Goldman DVM, Government Affairs Committee Co-Chair



Testimony of Douglas Gibson, MD
Medical Director, Connecticut State Medical Society Physician Health Program
In support of revised HB 7155,
An Act Concerning a Health Care Providers Health Program
Public Health Committee
March 14, 2007

Senator Handley, Representative Sayers and members of the Public Health Committee I am Douglas Gibson, MD, medical director of the Connecticut State Medical Society Physician Health Program. On behalf of the Physician Health Program as well the Coalition of Health Care Professionals, I thank you for the opportunity to present this testimony to you today in support of House Bill 7155 An Act Concerning a Professional Assistance Program for Health care Professionals. I support the revised language that has been submitted by the Commissioner of the Department of Public Health (DPH) for House Bill 7155. A copy of the revised language is attached.

The members of the committee have heard the statistics regarding the prevalence of health care providers who might suffer the affliction of chemical dependency during their practice lifetime. Many of us deal with this on a daily basis. I have been involved with physician health matters for over a decade. Over the last two years, my involvement with the other health care professionals suffering from chemical dependency has intensified. I have counseled physician assistants, nurses, dentists and veterinarians, many desperately seeking help. In sharp distinction with physicians, who have the benefit of a confidential program, very few of these health care professionals were self-reported and too many were referred by colleagues only after they were far along the path of addiction. There was no formal assistance program available to them, making their intervention and recovery much more difficult. More importantly, there was neither a formal program to monitor their recovery, nor to monitor their ability to practice with skill and safety. Without a program, their relapse rate was high and their professional skills were eventually compromised. Many continued along the destructive path of addiction, not only

putting themselves in harms way, but also the patients they served. Only a small percent of these individuals came to the attention of the Department of Public Health or Licensing Boards. Our nurses have been without a program for far too long. We have a critical nursing shortage and have lost some of our best nurses to chemical dependency. They deserve better. All of our healthcare professionals deserve better. Most importantly, our patients deserve better. We must act now. The revised language in H.B. 7155 will allow us to create an effective and successful program.

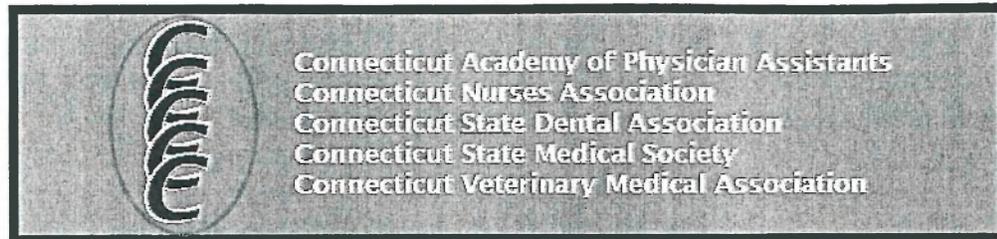
Why will it be so successful? It would be structured to encourage self referral as well as early referral from colleagues. We have learned from the Physician Health Program that self referrals happen **ONLY** when confidentiality is insured. **CONFIDENTIALITY IS THE KEY**, followed by compassionate-intervention, prompt assistance and a treatment program founded on evidence based medicine and delivered by those skilled in treating chemical dependency and mental illness. The participants must strictly adhere to the program and at all times demonstrate the ability to practice with skill and safety. Any deviation means automatic referral to the Department of Public Health or the Licensing Boards. **ACCOUNTABILITY IS ALSO KEY**, assuring quality and confidence. Education about chemical dependency and co-morbid illnesses is the foundation for understanding and compassion.

The various healthcare associations must pool their resources in establishing this comprehensive rehabilitation and monitoring program, utilizing the skills of those trained in chemical dependency and mental illnesses.

The language that is provided to you regarding revised H. B. 7155 will allow us to do so.

Additionally, I want to express my sincere gratitude to Dr. Galvin and his staff for working with us to achieve these important initiatives.

Thank you



**Connecticut State Dental Association
Testimony in Support of Revised Raised H. B. 7155
An Act Concerning a Professional Assistance Program
for Health Care Professionals**

Senator Handley, Representative Sayers and members of the Committee on Public Health:

I am Dr. Thomas J Calnon, a dentist with a general practice in Norwalk. I am here today to voice support for the revised language in House Bill 7155, An Act concerning a Professional Assistance Program for Health Care Professionals.

I am chairman of a committee for the Connecticut State Dental Association that is called the Professional Health Committee. The purpose of it is to provide some measure of support for dentists facing issues with alcohol and substance abuse as well as those involving physical disabilities and emotional problems.

Typically a call will come into a hotline number that we maintain for our membership and a confidential visit will be made by one or two members from this committee. We are not certified counselors or therapists and therefore we cannot perform any sort of diagnosis but we do try to listen, find out what's going on and try to direct the person we are seeing into some sort of therapy, 12 step program or maybe even to a treatment center. Often we are successful in at least getting people started on the road to recovery. Beyond that though we are very limited in our approach because we have no formal program for control, monitoring and follow-up during the first few years of recovery; and I am convinced that this close ongoing support early in recovery is essential for long term success.

The Connecticut State Dental Association is fairly small membership wise by national standards and most likely would not be able to have a complete assistance program of its own. Revised House Bill 7155 however, proposes a

single such assistance program for all health care professions in the State of Connecticut that the Connecticut State Dental Association can be a part of. It would provide us with a resource for crisis intervention, treatment referral, monitoring and follow-up, and for education of our membership. Because of this the CSDA supports this bill.

For any such program to be successful it must also have provisions that call for the protection of patient's rights and provide accountability to state regulatory agencies. Revised House Bill 7155 provides mechanisms for ensuring that these rights are maintained and that regular reporting to the required state agencies is carried out.

In summary I feel that this bill strikes a comfortable balance between providing assistance to afflicted health care professionals on the one hand and providing reasonable protection and safeguards to the public on the other. I support it and hope you will also.

Thank You

Thomas J. Calnon DDS
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General Assembly

January Session, 2007

Raised Bill No. 7155

LCO No. 3988

*03988 _____ PH *

Referred to Committee on Public Health

Introduced by:

(PH)

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

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

Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

- (1) "Chemical dependency" means abusive or excessive use of drugs, including alcohol, narcotics or chemicals, that results in physical or psychological dependence;
 - (2) "Department" means the Department of Public Health;
 - (3) "Health care professionals" includes any person licensed 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 of the general statutes;
 - (4) "Medical review committee" means any committee described in section 19a-17b of the general statutes that reviews and monitors participation by health care professionals in assistance programs; and
 - (5) "Assistance program" means a program established by a state or local professional society or membership organization of health care professionals 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) A state or local professional society or membership organization of health care professionals or any combination thereof, may establish a health care professional assistance program, provided the assistance program (1) operates in compliance with the provisions of

this section, and (2) includes a medical review committee that complies 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 an assistance program established pursuant to subsection (b) of this section, 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 construed as the practice of medicine or mental health care.

(d) The medical review committee shall not refer to an assistance program established pursuant to subsection (b) of this section 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. The 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 review committee or the assistance program, or both, concerning such health care professional. Upon such referral, the department shall determine if the health care professional is eligible to participate in an 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 assistance programs in determining what intervention, referral assistance, rehabilitation or support services are appropriate for such health care professional.

(e) Any health care professional participating in an assistance program established pursuant to subsection (b) of this section 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 has 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) of this section. The department may seek the advice of professional health care

societies or organizations and assistance programs in determining what intervention, referral assistance, rehabilitation or support services are appropriate for such health care professional.

(f) The medical review committee shall not refer to the program established pursuant to subsection (b) of this section any health care professional who is alleged to have harmed a patient. Upon being made aware of such allegation of harm the 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 review committee or the assistance program, or both, 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 an 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 assistance programs in determining what intervention, referral assistance, rehabilitation or support services are appropriate for such health care professional.

(g) Each assistance program established pursuant to subsection (b) of this section 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, 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 section 11-4a of the general statutes.

(h) (1) All information given or received in connection with any intervention, rehabilitation, referral assistance or support services provided by an 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 maintained by the assistance program in a file which shall be kept confidential and shall only be disclosed in accordance with this subsection. Such information may be disclosed: (A) To a person or entity employed by the assistance program, provided such disclosure is necessary for purposes of such program; (B) to another person or entity if the assistance program determines that disclosure is necessary in order to accomplish the purposes of such intervention, rehabilitation, referral assistance or support services; (C) in a civil or criminal case or other legal or administrative proceeding, in accordance with subdivision (2) of this subsection or subsection (f) of section 2 of this act or if the health care professional seeking or obtaining intervention, rehabilitation, referral assistance or support services authorizes such disclosure or; (D) in connection with administrative proceedings related to the imposition of disciplinary action against any health care professional referred to the department by an assistance program pursuant to subsection (d), (e), (f) or (i) of this section; (E) for purposes of an audit in accordance with subsection (l) of this section; or (F) if disclosure is otherwise required by law.

(2) The proceedings of a medical review committee established pursuant to this section 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 evaluation 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 of the fact that a health care professional participated in an 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.

(i) If at any time, (1) an assistance program established pursuant to subsection (b) of this section, 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 an assistance program fails or refuses to participate in the assistance 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.

(j) (1) Any physician, hospital or state or local professional society or organization of health care professionals that refers an individual for intervention to an assistance program for physicians established pursuant to subsection (b) of this section shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-13d of the general statutes, 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 an individual for intervention to an assistance program for physician assistants established pursuant to subsection (b) of this section shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-12e of the general statutes, 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) Each assistance program established pursuant to subsection (b) of this section shall meet with the professional assistance oversight committee established under section 2 of this act on a regular basis, but not less than four times each year.

(l) On or before November 1, 2007, and annually thereafter, each assistance program established pursuant to subsection (b) of this section 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. On or after November 1, 2011, the department, with the agreement of the professional assistance oversight committee established under section 2 of this act, 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 the 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 professional assistance oversight committee established under section 2 of this act 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 of the general statutes.

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

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

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

(d) The oversight committee may request and shall be entitled to receive copies of files or such

other assistance program records it deems necessary, provided all information pertaining to the identity of any health care professional shall first be redacted by the assistance program. No member of the oversight committee may copy, retain or maintain any such redacted records. If the oversight committee 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 has not refrained from practicing health care or has failed to participate in a recommended program of rehabilitation, the oversight committee shall notify the assistance program to refer the health care professional to the department. Upon such notification, the assistance program shall refer the health care professional to the department, in accordance with the provisions of subsection (i) of section 1 of this act.

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

(f) The proceedings of the oversight 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 evaluation 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 (1) in any civil action, the use of any writing recorded independently of such proceedings; (2) 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; (3) 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 (4) in any civil action against a health care professional, disclosure of the fact that a health care professional participated in an 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 (A) notification to the health care professional of the request for such disclosure, and (B) 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.

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

Statement of Purpose:

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

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



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**TESTIMONY RE: RAISED BILL NO. 7155 AN ACT CONCERNING A
PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTH CARE
PROFESSIONALS.**

Public Health Committee

March 14, 2007

Good afternoon Senator Handley, Representative Sayers and members of the Public Health Committee.

Thank-you for the opportunity to provide testimony on behalf of the Connecticut Nurses' Association (CNA), the professional organization for registered nurses in Connecticut. I am Marilyn Richard, a member of the Association's Government Relations Committee. I am an advanced practice registered nurse in psych/mental health and have practiced nursing for over 30 years. I am providing comments in support of RAISED BILL NO. 7155, AN ACT CONCERNING A PROFESSIONAL ASSISTANCE PROGRAM FOR HEALTH CARE PROFESSIONALS.

For over seventeen years the Connecticut Nurses' Association has spearheaded efforts for a program that would provide a voluntary alternative to the disciplinary process for nurses who have or are at risk of impairment due to substance abuse, mental health or physical disabilities. We now join with our colleagues from the Connecticut Association of Physician's Assistants, the Connecticut State Dental Society, the Connecticut State Medical Society and the Connecticut Veterinary Medicine Association whose organizations represent over 90,000 health care professionals and with the Connecticut Department of Public Health in support of this important legislation. The revised language of this bill that is supported is attached to this testimony.

Why does the CNA support such a program?

- Health care professional health programs are based on best practices and research in the area of mental health and addiction and address illnesses and conditions that are treatable.
- Public health and safety is promoted through a program that provides education, early intervention and close monitoring in a case management program run by mental health/addiction specialists.
- This alliance will provide a strong interdisciplinary collaboration with strict guidelines to ensure quality.
- The time is decreased between the practitioner's acknowledgment of a problem and the time he/she enters a recovery program; earlier intervention provides increased public safety and earlier return of participants to safe and competent practice.
- The program provides confidentiality for the practitioner who is voluntarily seeking assistance which is an essential and critical component of best practice models.
- The program ensures that practitioners who are not able to practice with skill and safety are referred to the appropriate agency as directed by state law.
- The American Nurses Association supports alternative programs and addresses this as part of the profession's responsibility to impairment problems.
- Since the late 80's the National Council of State Boards of Nursing has considered alternative programs the standard of practice. Currently over 42 states have alternative programs.

The association has appreciated the committee's support of this concept in the past and urges support for this bill. Thank you and I am available for questions.

PROPOSED REVISIONS TO RAISED BILL 7155

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

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

Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

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

(2) "Department" means the Department of Public Health;

(3) "Health care professionals" includes any person licensed or who has received 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 of the general statutes;

(4) "Medical review committee" means any committee that reviews and monitors participation by health care professionals in the assistance program[s] including medical review committees described in section 19a-17b of the general statutes;

(5) "Assistance program" means [a] the program established [a state or local professional society or membership organization of health care professionals] pursuant to subsection 1(b) 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) [A] State or local professional societies[y] or membership organizations of health care professionals or any combination thereof, may establish a single [health care professional] assistance program to serve all health care professionals identified in subsection 1(a)(3), provided the assistance program (1) operates in compliance with the provisions of this section, and (2) includes [a] one or more medical review committees that comply[ies] 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 [an] the assistance program established pursuant to subsection (b) of this section, 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 construed as the practice of medicine or mental health care.

(d) The medical review committee shall not [refer] admit to [an] the assistance program established pursuant to subsection (b) of this section 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. The 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 review committee or] the assistance program, [or both,] concerning such health care professional. Upon such referral, the department shall determine if the health care professional is eligible to participate in [an] 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[s] 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, during the health care professional's participation in and upon successful completion of the program, in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(e) Any health care professional participating in [an] the assistance program established pursuant to subsection (b) of this section 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 has 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) of this section. The department may seek the advice of professional health care societies or organizations and the assistance program[s] 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, during the health care professional's participation and upon successful completion of the program in accordance with terms agreed upon by the department,

the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(f) The medical review committee shall not [refer] admit to the program established pursuant to subsection (b) of this section any health care professional who is alleged to have harmed a patient. Upon being made aware of such allegation of harm the 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 review committee or] the assistance program, [or both,] 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 [an] 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[s] 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, during the health care professional's participation in and upon successful completion of the program in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(g) [Each] The assistance program established pursuant to subsection (b) of this section 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, 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 section 11-4a of the general statutes.

(h) (1) All information given or received in connection with any intervention, rehabilitation, referral assistance or support services provided by [an] 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 [maintained by the assistance program in a file which shall be kept] confidential and shall not [only] be disclosed to any third person or entity, unless disclosure is reasonably necessary for the accomplishment of the purposes of such intervention, referral assistance or support services or for the accomplishment of an audit in accordance with subsection (l) of this section and shall not be disclosed in any civil or criminal case or proceeding or in any legal or administrative proceeding, unless

the health care professional seeking or obtaining intervention, referral assistance or support services waives such privilege or unless disclosure is otherwise required by law. Unless the privilege under this subsection has been waived or unless 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 and referral or support services provided pursuant to this section. [in accordance with this subsection. Such information may be disclosed: (A) To a person or entity employed by the assistance program, provided such disclosure is necessary for purposes of such program; (B) to another person or entity if the assistance program determines that disclosure is necessary in order to accomplish the purposes of such intervention, rehabilitation, referral assistance or support services; (C) in a civil or criminal case or other legal or administrative proceeding, in accordance with subdivision (2) of this subsection or subsection (f) of section 2 of this act or if the health care professional seeking or obtaining intervention, rehabilitation, referral assistance or support services authorizes such disclosure or; (D) in connection with administrative proceedings related to the imposition of disciplinary action against any health care professional referred to the department by an assistance program pursuant to subsection (d), (e), (f) or (i) of this section; (E) for purposes of an audit in accordance with subsection (l) of this section; or (F) if disclosure is otherwise required by law.]

(2) The proceedings of a medical review committee [established pursuant to this section] 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 evaluation 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 of the fact that a health care professional participated in [an] 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 oversight committee pursuant to (2)(e) of this section.

(i) If at any time, (1) [an] the assistance program established pursuant to subsection (b) of this section, 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 [an] the assistance program fails to comply with terms or conditions of participation in the program or refuses to participate in the assistance 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 [an] 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[s] 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, during the health care professional's participation in and upon successful completion of the program in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(j) (1) Any physician, hospital or state or local professional society or organization of health care professionals that refers an individual for intervention to [an] the assistance program for physicians established pursuant to subsection (b) of this section shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-13d of the general statutes, 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 an individual for intervention to [an] the assistance program for physician assistants established pursuant to subsection (b) of this section shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-12e of the general statutes, 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) [Each] The assistance program established pursuant to subsection (b) of this section shall meet with the professional assistance oversight committee established under section 2 of this act on a regular basis, but not less than four times each year.

(l) On or before November 1, 2007, and annually thereafter, [each] the assistance program established pursuant to subsection (b) of this section 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 section 2 of this act, 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 the 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 2 of this act 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 of the general statutes.

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

(b) The [A] assistance program[s] established pursuant to section 1 of this act shall provide administrative support to the oversight committee.

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

(d) The oversight committee may request and shall be entitled to receive copies of files or such other assistance program records it deems necessary, provided all information pertaining to the identity of any health care professional shall first be redacted by the assistance program. No member of the oversight committee may copy, retain or maintain any such redacted records. If the oversight committee 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 has not refrained from practicing health care or has failed to [participate in a recommended] comply with terms or conditions of participation in the program of rehabilitation, the oversight committee shall notify the assistance program to refer the health care professional to the department. Upon such notification, the assistance program shall refer the health care professional to the department, in accordance with the provisions of subsection (i) of section 1 of this act.

(e) If, at any time, the oversight committee determines that the assistance program has not acted in accordance with the provisions of this Act, or requires remedial action based upon the audit performed under subsection 1(l), the oversight committee shall give thirty days written notice to the assistance program. The assistance program shall develop and submit to the oversight committee a corrective action plan within thirty days of the issuance of said notice. The assistance program may seek the advice and assistance of the oversight committee in developing the corrective action plan. Upon approval of the corrective action plan, the oversight committee shall provide a copy of the approved plan to the assistance program and the department. If the assistance program fails to satisfy the corrective action plan, the oversight committee may amend the plan or direct the assistance program to refer some or all of the records of the health care professionals in the assistance program to the department. Upon such referral, the department shall determine if the health care professionals are eligible for continued intervention, referral assistance or support services and whether participation in such intervention, referral assistance or support services should be treated as confidential in accordance with subsection 1(h). If the department determines that the health care professional is an appropriate candidate for confidential participation in continued intervention, referral assistance or support services and the health care professional agrees to participate in accordance with terms agreed upon by the department and the health care professional, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open. At such time as the oversight committee determines that the assistance program is in compliance with the corrective action plan and the oversight committee gives written notice to the department, the department may refer the health care professionals to the assistance program for continued intervention, referral assistance or support services and shall submit to the assistance program all records and files concerning those health care professionals.

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

[(f)] (g) The proceedings of the oversight 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 evaluation 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 (1) in any civil action, the use of any writing recorded independently of such proceedings; (2) 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; (3) 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 (4) in any civil action against a health care professional, disclosure of the fact that a health care professional participated in [an] 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 (A) notification to the health care professional of the request for such disclosure, and (B) 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.

Section 20-13e

In order to provide for a single program and consistency with existing statutes, the Department and the coalition also request the Committee to revise Section 20-13e of the general statutes as follows:

Section 20-13(e) of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The department shall investigate each petition filed pursuant to section 20-13d, in accordance with the provisions of subdivision (10) of subsection (a) of section 19a-14, to determine if probable cause exists to issue a statement of charges and to institute proceedings against the physician under subsection (e) of this section. Such investigation shall be concluded not later than eighteen months from the date the petition is filed with the department and, unless otherwise specified by this subsection, the record of such investigation shall be deemed a public record, in accordance with section 1-210, at the conclusion of such eighteen-month period. Any such investigation shall be confidential and no person shall disclose his knowledge of such investigation to a third party unless the physician requests that such investigation and disclosure be open. If the department determines that probable cause exists to issue a statement of charges, the entire record of such proceeding shall be public unless the department determines that the physician is an appropriate candidate for participation in a rehabilitation program in accordance with Raised Bill No. 7155 [subsection (b) of this section and the physician agrees to participate in such program in accordance with terms agreed upon by the department and the physician]. The petition and all records of any physician who was determined eligible for participation in a rehabilitation program prior to the effective date of Raised Bill No. 7155 shall remain confidential during the physician's participation and upon successful completion of the rehabilitation program in accordance with the terms and conditions agreed upon by the

department and the physician. If at any time subsequent to the filing of a petition and during the eighteen-month period, the department makes a finding of no probable cause, the petition and the entire record of such investigation shall remain confidential unless the physician requests that such petition and record be open.

[(b) In any investigation pursuant to subsection (a) of this section, the department may recommend that the physician participate in an appropriate rehabilitation program, provided the department determines that the physician, during his participation in such a program in accordance with terms agreed upon by the department and the physician, does not pose a threat in his practice of medicine to the health and safety of any person. Such determination shall become a part of the record of such investigation. The department may seek the advice of established medical organizations in determining the appropriateness of any rehabilitation program. If the physician participates in an approved program, with the consent of the department, the department shall monitor the physician's participation in such program and require the person responsible for the physician's activities in such program to submit signed monthly reports describing the physician's progress therein. The department shall determine if participation in such a program is sufficient cause to end its investigation. Upon commencement of the rehabilitation program by the physician and during his continued participation in such program in accordance with terms agreed upon by the department and the physician, all records shall remain confidential.]

[(c) (b) As part of an investigation of a petition filed pursuant to subsection (a) of section 20-13d, the Department of Public Health may order the physician to submit to a physical or mental examination, to be performed by a physician chosen from a list approved by the department. The department may seek the advice of established medical organizations or licensed health professionals in determining the nature and scope of any diagnostic examinations to be used as part of any such physical or mental examination. The examining physician shall make a written statement of his or her findings.

[(d) (c) If the physician fails to obey a department order to submit to examination or attend a hearing, the department may petition the superior court for the judicial district of Hartford to order such examination or attendance, and said court or any judge assigned to said court shall have jurisdiction to issue such order.

[(e) (d) Subject to the provisions of section 4-182, no license shall be restricted, suspended or revoked by the board, and no physician's right to practice shall be limited by the board, until the physician has been given notice and opportunity for hearing in accordance with the regulations established by the commissioner.

Statement of Purpose:

To authorize state or local professional societies and organizations of health care professionals to establish a single program[s] for rehabilitating impaired health care professionals.

HB7155revlanguage_3_3.13.07



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

TESTIMONY PRESENTED BEFORE THE PUBLIC HEALTH COMMITTEE

March 14, 2007

J. Robert, Galvin, M.D., M.P.H., Commissioner, (860) 509-7101

House Bill 7155 - An Act Concerning a Professional Assistance Program for Health Care Professionals

The Department of Public Health supports House Bill 7155.

House Bill 7155 allows for the establishment of a professional assistance program that will provide confidential education, prevention, intervention, referral assistance, rehabilitation and support services to all licensed health care professionals in the State of Connecticut who have a chemical dependency, emotional or behavioral disorder, or physical or mental illness. The program will be operated by a coalition of professional societies or membership organizations of health care professionals with the guidance of a professional assistance oversight committee and will provide a valuable resource that is currently not available to practitioners before they reach a point when they pose a threat to themselves or the patients/clients they serve.

The Department has met with representatives of the coalition of health care professional organizations that requested this legislation to discuss issues of mutual concern. As a result of these discussions, the Department and the coalition have jointly developed proposed revisions to the language of the bill. We appreciate the coalition's willingness to meet with the Department and engage in these discussions, and believe that the revised language addresses the concerns that were initially raised.

The revised language provides:

- One strong program to serve all health professionals;
- Confidentiality provisions for program participants, including referrals made by the Department to the program;
- Mandatory referrals to the Department of practitioners who are not able to practice with skill and safety or pose a threat to the health and safety of any person or patient in the health care setting and do not refrain from practicing health care or fail to participate in a recommended program of rehabilitation; or who refuse to participate in the assistance program or fail to comply with terms or conditions of participation in the program;
- Annual program audit for the purpose examining quality control of the program and compliance with all requirements of the bill;
- Establishment of an oversight committee with the responsibility for overseeing quality assurance; and
- Program accountability (i.e., consequences to the program for noncompliance).

The Department respectfully requests the Committee to amend this bill to incorporate the attached proposed revisions as drafted by the Department and the coalition.

Thank you for your consideration of the Department's views on this bill.

Phone:



Telephone Device for the Deaf: (860) 509-7191

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PROPOSED REVISIONS TO RAISED BILL 7155

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

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

Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

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

(2) "Department" means the Department of Public Health;

(3) "Health care professionals" includes any person licensed or who has received 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 of the general statutes;

(4) "Medical review committee" means any committee that reviews and monitors participation by health care professionals in the assistance program[s] including medical review committees described in section 19a-17b of the general statutes;

(5) "Assistance program" means [a] the program established [a state or local professional society or membership organization of health care professionals] pursuant to subsection 1(b) 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) [A] State or local professional societies[ly] or membership organizations of health care professionals or any combination thereof, may establish a single [health care professional] assistance program to serve all health care professionals identified in subsection 1(a)(3), provided the assistance program (1) operates in compliance with the provisions of this section, and (2) includes [a] one or more medical review committees that comply[ies] 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 [an] the assistance program established pursuant to subsection (b) of this section, 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 construed as the practice of medicine or mental health care.

(d) The medical review committee shall not [refer] admit to [an] the assistance program established pursuant to subsection (b) of this section 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. The 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 review committee or] the assistance program, [or both,] concerning such health care professional. Upon such referral, the department shall determine if the health care professional is eligible to participate in [an] 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[s] 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, during the health care professional's participation in and upon successful completion of the program, in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(e) Any health care professional participating in [an] the assistance program established pursuant to subsection (b) of this section 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 has 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) of this section. The department may seek the advice of professional health care societies or organizations and the assistance program[s] 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, during the health care professional's participation and upon successful completion of the program in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(f) The medical review committee shall not [refer] admit to the program established pursuant to subsection (b) of this section any health care professional who is alleged to have harmed a patient. Upon being made aware of such allegation of harm the 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 review committee or] the assistance program, [or both,] 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 [an] 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[s] 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, during the health care professional's participation in and upon successful completion of the program in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(g) [Each] The assistance program established pursuant to subsection (b) of this section 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, 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 section 11-4a of the general statutes.

(h) (1) All information given or received in connection with any intervention, rehabilitation, referral assistance or support services provided by [an] 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 [maintained by the assistance program in a file which shall be kept] confidential and shall not [only] be disclosed to any third person or entity, unless disclosure is reasonably necessary for the accomplishment of the purposes of such intervention, referral assistance or support services or for the accomplishment of an audit in accordance with subsection (l) of this section and shall not be disclosed in any civil or criminal case or proceeding or in any legal or administrative proceeding, unless the health care professional seeking or obtaining intervention, referral assistance or support services waives such privilege or unless disclosure is otherwise required by law. Unless the privilege under this subsection has been waived or unless 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 and referral or support services provided pursuant to this section. [in accordance with this subsection. Such information may be disclosed: (A) To a person or entity employed by the assistance program, provided such disclosure is necessary for purposes of such program; (B) to another person or entity if the assistance program determines that disclosure is necessary in order to accomplish the purposes of such intervention, rehabilitation, referral assistance or support services; (C) in a civil or criminal case or other legal or administrative proceeding, in accordance with subdivision (2) of this subsection or subsection (f) of section 2 of this act or if the health care professional seeking or obtaining intervention, rehabilitation, referral assistance or support services authorizes such disclosure or; (D) in connection with administrative proceedings related to the imposition of disciplinary action against any health care professional referred to the department by an assistance program pursuant to subsection (d), (e), (f) or

(i) of this section; (E) for purposes of an audit in accordance with subsection (l) of this section; or (F) if disclosure is otherwise required by law.]

(2) The proceedings of a medical review committee [established pursuant to this section] 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 evaluation 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 of the fact that a health care professional participated in [an] 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 oversight committee pursuant to (2)(e) of this section.

(i) If at any time, (1) [an] the assistance program established pursuant to subsection (b) of this section, 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 [an] the assistance program fails to comply with terms or conditions of participation in the program or refuses to participate in the

assistance 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 [an] 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[s] 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, during the health care professional's participation in and upon successful completion of the program in accordance with terms agreed upon by the department, the health care professional, and the assistance program, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open.

(j) (1) Any physician, hospital or state or local professional society or organization of health care professionals that refers an individual for intervention to [an] the assistance program for physicians established pursuant to subsection (b) of this section shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-13d of the general statutes, 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 an individual for intervention to [an] the assistance program for physician assistants established pursuant to subsection (b) of this section shall be deemed to have satisfied the obligations imposed on the person or organization pursuant to subsection (a) of section 20-12e of the general statutes, 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) [Each] The assistance program established pursuant to subsection (b) of this section shall meet with the professional assistance oversight committee established under section 2 of this act on a regular basis, but not less than four times each year.

(l) On or before November 1, 2007, and annually thereafter, [each] the assistance program established pursuant to subsection (b) of this section 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 section 2 of this act, 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 the 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 2 of this act 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 of the general statutes.

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

(b) The [A] assistance program[s] established pursuant to section 1 of this act shall provide administrative support to the oversight committee.

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

(d) The oversight committee may request and shall be entitled to receive copies of files or such other assistance program records it deems necessary, provided all information pertaining to the identity of any health care professional shall first be redacted by the assistance program. No member of the oversight committee may copy, retain or maintain any such redacted records. If the oversight committee 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 has not refrained from practicing health care or has failed to [participate in a recommended] comply with terms or conditions of participation in the program of rehabilitation, the oversight committee shall notify the assistance program to refer the health care professional to the department. Upon such notification, the assistance program shall refer the health care professional to the department, in accordance with the provisions of subsection (i) of section 1 of this act.

(e) If, at any time, the oversight committee determines that the assistance program has not acted in accordance with the provisions of this Act, or requires remedial action based upon the audit performed under subsection 1(l), the oversight committee shall give thirty days written notice to the assistance program. The assistance program shall develop and submit to the oversight committee a corrective action plan within thirty days of the issuance of said notice. The assistance program may seek the advice and assistance of the oversight committee in developing the corrective action plan. Upon approval of the corrective action plan, the oversight committee shall provide a copy of the approved plan to the assistance program and the department. If the assistance program fails to satisfy the corrective action plan, the oversight committee may amend the plan or direct the assistance program to refer some or all of the records of the health care professionals in the assistance program to the department. Upon such referral, the department shall determine if the health care professionals are eligible for continued intervention, referral assistance or support services and whether participation in such intervention, referral assistance or support services should be treated as confidential in accordance with subsection 1(h). If the department determines that the health care professional is an appropriate candidate for confidential participation in continued intervention, referral assistance or support services and the health care professional agrees to participate in accordance with terms agreed upon by the department and the health care professional, the entire record of the referral and investigation shall not be public and shall remain confidential unless the health care professional requests that the record be open. At such time as the oversight committee determines that the assistance program is in compliance with the corrective action plan and the oversight committee gives written notice to the department, the department may refer the health care professionals to the assistance program for continued intervention, referral assistance or support

services and shall submit to the assistance program all records and files concerning those health care professionals.

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

[(f)] (g) The proceedings of the oversight 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 evaluation 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 (1) in any civil action, the use of any writing recorded independently of such proceedings; (2) 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; (3) 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 (4) in any civil action against a health care professional, disclosure of the fact that a health care professional participated in [an] 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 (A) notification to the health care professional of the request for such disclosure, and (B) 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.

Section 20-13e

In order to provide for a single program and consistency with existing statutes, the Department and the coalition also request the Committee to revise Section 20-13e of the general statutes as follows:

Section 20-13(e) of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The department shall investigate each petition filed pursuant to section 20-13d, in accordance with the provisions of subdivision (10) of subsection (a) of section 19a-14, to determine if probable cause exists to issue a statement of charges and to institute proceedings against the physician under subsection (e) of this section. Such investigation shall be concluded not later than eighteen months from the date the petition is filed with the department and, unless otherwise specified by this subsection, the record of such investigation shall be deemed a public record, in accordance with section 1-210, at the conclusion of such eighteen-month period. Any such investigation shall be confidential and no person shall disclose his knowledge of such investigation to a third party unless the physician requests that such investigation and disclosure be open. If the department determines that probable cause exists to issue a statement of charges, the entire record of such proceeding shall be public unless the department determines that the physician is an appropriate candidate for participation in a rehabilitation program in accordance with Raised Bill No. 7155 [subsection (b) of this section and the physician agrees to participate in such program in accordance with terms agreed upon by the department and the physician]. The petition and all records of any physician who was determined eligible for participation in a rehabilitation program prior to the effective date of Raised Bill No. 7155 shall remain confidential during the physician's participation and upon successful completion of the rehabilitation program in accordance with the terms and conditions agreed upon by the department and the physician. If at any time subsequent to the filing of a petition and during the eighteen-month period, the department makes a finding of no probable cause, the petition and the entire record of such investigation shall remain confidential unless the physician requests that such petition and record be open.

[(b) In any investigation pursuant to subsection (a) of this section, the department may recommend that the physician participate in an appropriate rehabilitation program, provided the department determines that the physician, during his participation in such a program in accordance with terms agreed upon by the department and the physician, does not pose a threat in his practice

of medicine to the health and safety of any person. Such determination shall become a part of the record of such investigation. The department may seek the advice of established medical organizations in determining the appropriateness of any rehabilitation program. If the physician participates in an approved program, with the consent of the department, the department shall monitor the physician's participation in such program and require the person responsible for the physician's activities in such program to submit signed monthly reports describing the physician's progress therein. The department shall determine if participation in such a program is sufficient cause to end its investigation. Upon commencement of the rehabilitation program by the physician and during his continued participation in such program in accordance with terms agreed upon by the department and the physician, all records shall remain confidential.]

[(c)] (b) As part of an investigation of a petition filed pursuant to subsection (a) of section 20-13d, the Department of Public Health may order the physician to submit to a physical or mental examination, to be performed by a physician chosen from a list approved by the department. The department may seek the advice of established medical organizations or licensed health professionals in determining the nature and scope of any diagnostic examinations to be used as part of any such physical or mental examination. The examining physician shall make a written statement of his or her findings.

[(d)] (c) If the physician fails to obey a department order to submit to examination or attend a hearing, the department may petition the superior court for the judicial district of Hartford to order such examination or attendance, and said court or any judge assigned to said court shall have jurisdiction to issue such order.

[(e)] (d) Subject to the provisions of section 4-182, no license shall be restricted, suspended or revoked by the board, and no physician's right to practice shall be limited by the board, until the physician has been given notice and opportunity for hearing in accordance with the regulations established by the commissioner.

Statement of Purpose:

To authorize state or local professional societies and organizations of health care professionals to establish a single program[s] for rehabilitating impaired health care professionals.